

**For Official Use**

**DAFFE/CFA/WP8(2000)13/REV1**



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

**09-Jul-2002**

**English - Or. English**

**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMMITTEE ON FISCAL AFFAIRS**

**DAFFE/CFA/WP8(2000)13/REV1  
For Official Use**

**Working Party No. 8 on Tax Avoidance and Evasion**

**QUESTIONNAIRE ON SOURCES OF INFORMATION FROM ABROAD**

*This document is submitted to Working Party No. 8 FOR INFORMATION.*

For further information please contact: Mr Gregory Wood, Tel: (33 1) 45 24 15 71, Fax: (33 1) 44 30 63 21 ; Email: [gregory.wood@oecd.org](mailto:gregory.wood@oecd.org)

**JT00129441**

Document complet disponible sur OLIS dans son format d'origine  
Complete document available on OLIS in its original format

**English - Or. English**

## TABLE OF CONTENTS

QUESTIONNAIRE ON SOURCES OF INFORMATION FROM ABROAD RE: DAFFE/CFA/WP8(98)11/REV1.....	3
AUSTRALIA.....	3
AUSTRIA.....	13
BELGIUM.....	22
CANADA.....	33
CZECH REPUBLIC.....	60
DENMARK.....	65
FINLAND.....	72
FRANCE.....	77
GERMANY.....	90
HUNGARY.....	99
IRELAND.....	107
ITALY.....	109
JAPAN.....	114
LUXEMBOURG.....	118
THE NETHERLANDS.....	125
NEW ZEALAND.....	130
NORWAY.....	133
POLAND.....	139
SPAIN.....	144
SWEDEN.....	151
SWITZERLAND.....	154
UNITED KINGDOM.....	162
UNITED STATES.....	173

**QUESTIONNAIRE ON SOURCES OF INFORMATION FROM ABROAD  
RE: DAFTE/CFA/WP8(98)11/REV1**

**AUSTRALIA**

**A. FORMS OF BUSINESS**

**Company Limited by Guarantee**

A company limited by guarantee is formed on the principle of having the liability of its members limited by the memorandum stating the respective amounts that the members undertake to contribute to the property of the company in the event of it being wound up. Such a company does not have a share capital. Members are not required to contribute capital whilst the company is operating. However, in the event that the company being wound up and company assets are insufficient to meet liabilities its members are liable to pay up the amount specified in the memorandum as the "members guarantees".

**Company Limited by Shares i.e. Public Company**

A Company limited by shares is formed on the principle of having the liability of its members limited by the memorandum to the amount (if any) unpaid on the shares respectively held by them. These companies can be identified, as they are required under law to have the word "Limited" or its abbreviation "Ltd" at the end of the company name. Members of a company limited by shares have limited liability; therefore the creditors of such a company do not have access to the personal property of the members to satisfy debts. Public companies must have at least 5 shareholders and three directors.

A public company may or may not be listed on the stock exchange. The advantages of listing is that it gains access to the national capital market through the sale of equity in the company.

The principal requirements for listing are:

1. A certain minimum issued capital and spread of holdings prescribed,
2. Provisions are required to be included in the company's articles of association which are designed to secure the equal treatment of all shareholders in relation to participation in dividends, capital distributions and voting,
3. The company's constitution must provide for the unrestricted transfer of shares,
4. The company's constitution must provide for a capacity in shareholders to exercise ultimate control over the board of directors, and
5. Exhaustive provisions in relation to the disclosure of information affecting the value of the interest of investors in quoted securities are imposed.

The incorporation of a company as a separate entity has the result that the debts incurred are company debts, and not those of its members. Public companies must have their accounts audited and lodge a set of audited accounts with the Australian Securities Commission.

### **Proprietary Company**

A Company (other than a no-liability company) may be incorporated as a proprietary company if it has share capital, and its memorandum and articles of association include:

- i. Restrictions the right of transfer of shares,
- ii. A limit to not more than 50 members but no less than 2 (counting joint holders as a single unit member and not counting employees),
- iii. Prohibit any invitation to the public to subscribe for shares in or debentures of the company, and
- iv. Prohibit any invitation to the public to deposit money with the company, whether for fixed periods or payable on call and whether bearing interest or not.

Proprietary companies require a minimum of two members for incorporation. They are also required to have two directors, both natural persons, one of whom must reside within Australia. The quorum for a general meeting, unless the articles provide for otherwise, is two members.

### **Exempt Proprietary Company**

A proprietary company is exempt where none of its shares are owned by, or deemed to be owned by, a public company and where no member is a public company.

### **Company Limited by both Shares and Guarantee**

A company limited by both shares and guarantee is one in which a member has liability as shareholder (to the extent of the unpaid portion of the nominal value of the member's shares) and as a guarantor (to the amount nominated in the memorandum as undertaken to be paid on a winding up). A Company limited by shares and guarantee may also be incorporated as a proprietary company.

The share capital of a company limited by shares and guarantee must be divided into shares of a fixed amount. A Company limited by shares may not confer upon any person a right to participate in the divisible profits of the company other than as a member.

### **Company with Unlimited Liability**

An unlimited company may be formed either with or without share capital. If the company has share capital, that capital must be divided into the shares of a fixed amount. Members of an unlimited company are obliged to contribute to the company, to the extent of their resources, to permit the company to discharge its liabilities in the event of the company winding up.

Although an unlimited company does not confer the protection of limited liability upon its members, it is nevertheless a separate legal entity and its members are liable, not to the creditors of the company but to the company itself. On winding up, the provisions relating to the unpaid calls on shares apply if the company has share capital, but thereafter each member is individually liable to the extent of the debts contracted immediately before the time at which they ceased to be a member.

Under Corporations Law, a company incorporated as an unlimited company may convert to a limited company where it has not, within the previous three years, converted from a limited company to an unlimited company. A company incorporated as a limited company may convert to an unlimited company.

## **Association**

An association does not need to be formally incorporated under the legislation, and at common law an unincorporated association is recognised as a body of two or more persons organised for the purposes which may or may not include the carrying on of a business with a view to profit making. The associations' incorporation legislation does not apply to an association which is formed for trading or for pecuniary profit of its members, or which is a trade union or is a company under the companies legislation.

An association or partnership of more than 20 members formed for the "acquisition of gain" must be incorporated as a company under the Corporations Law unless declared by the Minister to be a profession or calling that may be carried on by an unincorporated association (or partnership) within the maximum numbers specified.

These are examples of associations:

6. Small local bodies with uncomplicated objectives,
7. Learned societies with membership based on select qualifications,
8. Employer or employee associations,
9. Cultural, sporting, or pastime associations open to all members,
10. Associations with religious, patriotic or political interest,
11. Professional and kindred associations with specific entry requirements,
12. Charitable organisations with fund raising as an objective,
13. Associations to bring about mergers of existing bodies,
14. Those with memberships comprising corporations including other associations,
15. Nation-wide bodies under federal, affiliated or unitary arrangements, and
16. Branches or divisions of existing bodies.

Also included are youth, voluntary and community groups, pressure groups and political parties.

The liability of the members of an unincorporated association is limited to the amount of their subscription unless there is a contrary intention expressed in the rules or constitution of the association.

## **No-Liability Companies**

No liability companies have been specially developed for the purposes of the Australian mining industry. They are unique in that its members are not legally liable for calls made by the company either during its lifetime or, through the liquidator, in cases of winding up.

There are a number of restrictive provisions in the Corporations Law designed to protect the members of no-liability companies, who are often inexperienced investors or speculators. Principally, a no-liability company must include in its name the words "No Liability" or an abbreviation "NL" as a warning to persons dealing or investing in such companies.

## **Sole Trader**

There is no statutory regulation of the sole trader's status as a one-person business organisation. Apart from the possible need to register a business name, as required under the Business Names Act, a sole trader is subject to normal business regulations. Liability is unlimited and creditors will have recourse against all the assets of the sole trader held in their name including personal assets.

## **Partnership**

In contrast to a company a partnership is a much less regulated arrangement. The only real test or measure of a partnership is that "they are carrying on a business in common with a view to profit". However, a partnership is not a separate entity for the purposes of the Income Tax Legislation income tax, as it does not pay tax on an entity basis but profits are split between the partners and each individual is taxed on their distribution and receipt of profit.

## **Joint Venture**

A joint venture is an association of persons, natural or corporate, who agree by contract to engage in some common, usually an ad hoc undertaking, for joint profit by combining their respective resources, without, forming a partnership in the legal sense. Their agreement also provides for a community of interest among the joint venturers each of whom is a principal and agent as to the others within the scope of the venture over which each venturer exercises some degree of control.

A joint venture usually involves separate ventures for each participant. Assets of the joint venture are usually owned by the participants as "tenants in common" with each party having an individual share to separately dispose of it.

Joint ventures are commonly used in the following situations:

- Mining syndicates,
- Property developments,
- Share farming arrangements,
- Manufacturing arrangements,
- Publishing agreements,
- Entertainment agreements, and
- Industrial research and development agreements.

There is no requirement under the statute, or at common law, for a joint venture to be registered apart from the formalities imposed by business names legislation.

## **Trust**

A trust may be defined as an obligation enforceable in equity which rests on a person (the trustee) as owner of some specific property (the trust property) to deal with that property for the benefit of another person (the beneficiary) or for the advancement of certain purposes.

The difference between a trust and a company is that the trust has neither a separate legal entity nor does it involve a contractual relationship between all the persons in it.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Australia has Conventions/Treaties/Agreements with: United Kingdom, United States of America, Canada, New Zealand, Singapore, Japan, Germany, Netherlands, France, Greece, Belgium, Philippines, Switzerland, Malaysia, Sweden, Denmark, Ireland, Italy, Korea, Norway, Malta, Finland, Austria, China, Papua New Guinea, Thailand, Sri Lanka, Fiji, Hungary, Kiribati, India, Poland, Indonesia, Vietnam, Spain, Czech Republic and Taipei. The most recent treaty signed was with South Africa but it is not yet in force.

Income Tax Agreements may be with non-countries, and are, therefore not "treaties" and the reference to "treaties" in this section follows the language of the questionnaire, but encompasses such instruments.

Australia is also a party to the French Airline Profits Agreement, Italian Airline Profits Agreement, Indian Airline Profits Agreement and the Chinese Airline Profits Agreement.

### **1. Income Tax Treaties that include an Exchange of Information Provisions**

Income Tax Treaties negotiated by Australia in most instances provide for the exchange of information in relation to taxes specified under the Scope of the Convention or Treaty under Article 2. Information acquired under the treaty or convention must be treated as secret and its disclosure is restricted. Any such requests for exchanges of information must be made through the Competent Authority, Mr. Dave Lewis within the Australian Taxation Office.

Requests for information should be directed to:

Mr Dave Lewis  
Assistant Commissioner  
International Tax Division  
Competent Authority  
PO Box 900  
Civic Square Act 2608

### **Limitations to Exchange of Information**

Agreements based on the OECD Model Tax Convention's Exchange of Information Article 26 contains provisions that the requested state is not obliged to supply information where:

1. There is lack of reciprocity i.e. the requesting state could not legally or would not in practice obtain and supply similar information.
2. There is a risk of disclosure of business and professional secrets, and
3. Cases where disclosure of information would be contrary to public policy.

The question as to reciprocity is a matter for the individual Competent Authorities to determine.

### **2. Estate Tax Treaties**

There are no estate tax treaties in Australian legislation.

### **3. Tax Information Exchange Agreements or Conventions**

In conjunction with the treaties/conventions listed at B, Australia has entered into co-operative working agreements/arrangements with treaty partners in an effort to facilitate co-operation and share information and experiences valuable to improving compliance and effectiveness of the agencies involved.

#### **4. Mutual Legal Assistance (treaties that provide for exchange of information for tax purposes)**

Whilst strictly not related to tax matters Australia has entered into over thirty mutual assistance in criminal matters treaties and is a signatory to the December 1988 US Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (over 100 signatories). Information can be sought to assist in an investigation or for evidence to present in Court. Information obtained under a Mutual Assistance in Criminal matters agreement is prima facie evidence under the 1994 Foreign Evidence Act.

The legal assistance granted is generally limited to assisting the requesting country in gathering evidence for a specific case. The use of information gathered for other purposes such as amending tax assessments is not permitted. However, once the evidence is admitted in a public court it becomes information which can be acted upon.

#### **Other legislation that may be of assistance:**

##### ***Laundering of Money***

Australia has signed on for the 1990 Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds of crime.

##### ***Business Regulations***

Australia's 1992 Mutual Assistance in Business Regulations Act may also provide some avenues for the obtaining of information regarding fraudulent business activities.

#### **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Australia is signatory to both the Hague Evidence Convention and the Hague Convention on abolishing the Requirements of Legislation for Foreign Public Documents. Australia's participation in regard to these conventions and others is administered by the Attorney-General's Department. Information and copies of the conventions to which Australia is a signatory are available through:

Attorney-General's Department  
Robert Garran Offices  
National Circuit  
Barton, Canberra ACT 2600

#### **D. DOMESTIC LAWS**

The Commissioner and any duly authorised ATO Officer has the right to full and free access to all buildings, places, books, documents and other papers for the purposes of both the Income Tax Assessment Act (1936) and Income Tax Assessment Act (1997). This enables the Commissioner to obtain tax-related information from the offices of solicitors and accountants whose clients are being investigated for tax avoidance. Whilst the access powers granted under Sections 263, 264 and 264(a) does not entitle the officer to take possession of a taxpayers records officers are entitled to make copies or extracts. Information requested under the Exchange of Information article can be accessed by the Australian Taxation Office through the Section referred to above.

Access to court information by foreign jurisdictions is covered under normal court processes and as such normal court rules apply. Access can be obtained via a subpoena, requiring a person to provide information or appear in court on a set date to provide evidence. A subpoena is not limited to that particular person concerned but may also include a third person, as long as they and the information are relevant to the conduct of the proceedings. A discovery audit can also be sued and extended to third parties being requested to provide relevant information in relation to that matter. An interrogatory can be enforced that orders the parties involved to answer specific questions. Subject to the normal court rules any information obtained in the above processes must only be used in the context of the court proceedings. The use of the information for any other purposes is seen as contempt of court and as such is a punishable offence.

**The section reflects points E, F and includes additional notes to be read in conjunction with the Table attached.**

1. **Court Records:** Not all court records are publicly available. For example settlement figures, divorce proceedings, custody issues and wills are not in fact made public but limited to release for only those parties involved in the legal proceedings.
5. **Wills:** Are administered through the Probate Division of the Supreme Court in each State. There is no central database of the probate records.
6. **Patents:** Are public records. Records are both centralised and available electronically through an organisation known as IP Australia Patents, Trademarks and Designs. Records are indexed by both name and date of patent approval. Searches are conducted on the applicant's name.
7. **Trademarks:** Refer to Patents comments above.
8. **Copyrights:** There are no records of copyrights as it automatically applies to all literary and artistic works.
9. **Commercial Register:** For the purposes of the questionnaire this has been taken to be the Registrar of Companies. These records are considered to be public and copies of those records can be accessed through the Australian Securities and Investments Commission. Records are centralised enabling Australia wide searches to be conducted at any office within Australia. Records are indexed via a unique identifying nine-digit code or number known as the Australian Company Number (CAN). This number is allocated at the time of registration of the company. It is required to be shown on all company letterheads, invoices and accounts. Under the existing records structure it is possible to conduct a search through the Australian Company Number (CAN), the name of the company's officer's names, individual names and date of births and shareholders names.

Whilst some records are not included within the individual company records, court records involving the reinstatement of a company, or a stay of winding up procedures, would remain on the company records for historical purposes. Company financial records such as the balance sheet, profit and loss statement, and the auditors' report are generally only found on the records of public companies, large proprietary companies and foreign controlled proprietary companies.

10. **Corporation Charter and Company Bi-Laws:** This has been interpreted for the purposes of the questionnaire as the constitution of a company. Under the existing legislative requirements only public companies are required to lodge a constitution.

11. **Land Transfer Records:** Each state within Australia has its own Land Titles Office recording only those properties and holdings within their state borders. Due to this it is not possible to conduct a nation-wide search through one central office. Each state however, holds similar information such as registered owners' details, title deeds, transfer agreements, mortgages and caveats.
12. **Birth Records:** Each state has its own Registrar of Births Deaths and Marriages. Therefore, it is not possible to conduct a nation-wide search through one central database, as these records are not cross-indexed from state to state. These records are not considered to be publicly available and are only disclosed to those parties with an interest in the event. Each registry also has specific rules as to the proof of identity required before a copy of a certificate is provided.
13. **Death Records:** See note 9.
14. **Marriage Records:** See note 9.
15. **Bank Information:** Is generally not publicly available information and not able to be released to parties who are not related to that particular transaction. Under the Income Tax Assessment Act the Australian Taxation Office can access bank information for the purposes of the Act under Sections 263 and 264. Bank records themselves are not centralised on a nation-wide basis but are collated at the individual institution level. These institutions provide electronic records to the ATO of dividend and interest payments on an annual basis.
16. **Credit Information:** Is available in limited circumstances within a private database service provider such as Dunn and Bradstreet. There is also a Credit Reference Limited which is an agency or tribunal that provides individuals access to their own credit reference files. However, this is for the use of the specific individuals involved only and cannot be accessed without the express written permission of those individuals involved. For example, in instances where applicants apply for a personal loan, the written permission of those individuals must be provided for the credit lender to access and confirm their credit ratings and history. Whilst there are more than one organisation to who provide this type of information and service all are registered with the Credit Reference Association of Australia.
17. **Foreign Tax Returns:** Normally foreign tax returns are not held by the ATO except in instances where the taxpayer had lodged them as a part of either his/her tax return. If foreign returns are lodged they can be translated through the Department of Immigration and Multicultural Affairs.
18. **Shipping Registry:** The Commonwealth organisation known as the Australian Marine Safety Authority administers the legislation that requires all vessels over 24 tonnage metres in length to be registered. Vessels under 24 tonnage metres may be permitted to be registered at the owners request for the purposes of proving title to the vessel. In some instances where a mortgage or caveat is held over the vessel, registration is required to secure the loan as a condition of approval for the finance. Yachts leaving Australia for international waters are required by law to be registered as a condition for clearance and release by customs. The records are public records, held on an electronic database and available on the Internet site [www.amsa.gov.au/shipregistrations](http://www.amsa.gov.au/shipregistrations). The website lists those vessels registered, those awaiting registration, the official number allocated on registration by AMSA and port details. However, it does not reveal the ownership or title details of the vessel. These are available through a separate request made to AMSA at a cost of \$41.00 per vessel. This separate search will reveal the owner of the vessel, title of the vessel, ship details such as engine numbers, length, engineering specifications, length and any encumbrances or mortgages over the vessel.

19. **Aircraft Registry:** All aircraft within Australia are registered with Civil Aviation Safety Association (CASA). The records are centralised and available electronically on the Internet. The site address is [www.casa.gov.au](http://www.casa.gov.au). The records are indexed according to both the VH registration number and the model of the aircraft/manufacture. A search can be conducted on either field across the entire database or segments of the database ranging from 1 to 7 i.e. file 7 is VH W to Z series. The database is updated every 4 weeks to reflect new aircraft added or return to the service after an absence, changes in the registration holder of the aircraft, de-registration and changes in registration trademarks. There is no fee for downloading or accessing this information.
20. **Company Records:** See point 7 Commercial Register.
21. **Company Bi-Laws:** See point 7 Commercial Register.
22. **Company Financial Statements:** See point 7 Commercial Register.
23. **Taxpayer Identification Number (TFN):** A tax file number is a unique number issued by the ATO for each taxpayer. Before a number is issued the taxpayer must provide a minimum amount and variety of identification so as to ensure that the applicant is bona-fide and to prevent abuse of the system. Although these records are centralised and electronically available, TFN's can only be released to those specific individuals involved after proof of identity is provided. The purpose of the TFN system is to detect non-disclosure of income primarily in the areas of employment and investment income.
24. **Certified Copies of Public Records:** Are obtained through each individual agency under the Freedom of Information Legislation (1982). Records are the responsibility of each individual department therefore, we are unable to comment on the centralisation, indexing, or electronic availability of those records. For the purposes of the ATO, not all records are public and those requested under FOI may be edited before release. Information subject to censure or editing would be likely to be information where the disclosure is deemed to be not in the public interest, where disclosure would reveal personal information of someone other than the taxpayer, where such a release would be a breach of confidence, where documents are protected by professional legal privilege, or where disclosure of the information is prohibited under certain other provisions such as secrecy provision of the Income Tax Assessment Act.
25. **Alien Registration:** A list of non-citizens who are currently within Australia is collated by the Department of Immigration and Multicultural Affairs. Department of Immigration and Multicultural Affairs also maintains a centralised database detailing movements of individuals in and out of Australia. Prior to 1981 records were on microfiche but not all records are electronic. The records are indexed by full name, date of birth, visa number and passport number allowing searches to be conducted on a wide range of fields.

For example one of these movement records include full names, dates of birth, sex, marital status, country of birth, number of total movements in and out of Australia, date of departure, passport number, destination, port of departure, flight details and carrier, expected date of return. However, the success of each search relies on the correct identification of the individual as to spelling of names, dates of birth and if possible passport or visa numbers.

The ATO has a database known as Client Identification Database Compliance (CIDC) which also lists all those persons resident for a period of time but who have not applied for a Tax File Number (TFN). This database is not a complete record and in some instances due to spelling and name changes it remains quite difficult to identify some individuals. The CIDC database is made up of information sources via the Australian Electoral Roll, Investment Income, Group Certificates, Welfare or Social Security Employment Declarations, Partnership and Trusts.

	Are records public		Are records centralised?		Available electronically		How are Records Indexed?			Date required to obtain records	
	Yes	No	Yes	No	Yes	No	Name	Location	Date		
Court Records	x			x		x	x			Case name + date of hearing	
Wills		x		x	x		x			See note 2	
Patents	x		x		x		x			Company/person making application	
Trademarks	x		x		x		x			Company/person making application	
Copyrights	No registration of copyrights in Australia										See note 5
Commercial Register	x		x		x		x			See note 6	
Corporation Charter										As per note 7	
Land Transfer Records	x			x		x	x			See note 8	
Birth Records		x		x		x	x			See note 9	
Death Records		x		x		x	x			See note 9	
Marriage Records		x		x		x	x			See note 9	
Bank Information		x		x						See note 12	
Credit Information		x		x		x	x			See note 13	
Foreign Tax Returns		x		x		x	x			See note 14	
Alien Registration Lists		x		x	x		x			See note 22	
Shipping Registry	x		x		x					See note 15	
Aircraft Registry	x		x		x		x			See note 16	
Company Records	x		x			x	x			See commercial register 6	
Company Bi-Laws										See note 7	
Company Financial Statements										See note 6	
Taxpayer Identification Number		x	x		x		x			See note 20	
Certified Copies of Public Records				x		x				See note 21	
Other Public Records											

## **AUSTRIA**

### **A. FORMS OF BUSINESS**

See Annex A and A/1.

### **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PRUPOSES**

#### **1. Income tax treaties that include exchange of information provisions:**

See Annex B

(S means "small information clause", i.e. only for the application of the tax treaty)

Inheritance tax treaties are earmarked in yellow colour.

#### **2. Estate tax treaties that include exchange of information provisions:**

See 1 above.

#### **3. Tax information exchange agreements or conventions:**

Mutual assistance treaty between Austria and Germany, date of signature 4 October 1954, Fed. Law Gazette 1955:249; currently under review; shall be replaced by a new treaty. Exchange of information is routed through the intermediary levels of the administration (Finanzlandesdirektionen in Austria, Oberfinanzdirektionen in Germany).

#### **4. Mutual legal assistance treaties that provide for exchange of information for tax purposes:**

Legal assistance treaties in civil law matters do not provide for the possibility of exchange of information in tax matters. Criminal legal assistance on the basis of the European Convention on Criminal Assistance and additional protocols (between judicial authorities and only in criminal matters).

### **C. MULTILATERAL CONVENTION THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

None. Austria is party to the Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents. However, this treaty cannot be qualified as a treaty providing for exchange of information in tax matters.

### **D. DOMESTIC LAWS**

None. Tax information is strictly protected by tax secrecy law unless there is an obligation to disclose that information on the basis of legal requirements (e.g. tax treaty provisions on exchange of information).

### **E. COMMERCIAL SOURCES OF INFORMATION**

Commercial firms for a fee.

## ANNEX A

The US and Austria have signed a tax treaty which provides for relief from double taxation and the exchange of information. Relief for double taxation must be directed to the US Competent Authority for mutual agreement negotiations with the Austrian Competent Authority.

### FORMS OF BUSINESS

The principal forms of business in Austria are as follows:

#### **A. *Einzelunternehenen***

This is a sole proprietorship. The owner of the business has unlimited liability for any debts. It must be registered with the local trade register if the business requires an administrative or commercial organisation.

#### **B. *Aktiengesellschaft (AG)***

The AG is a stock corporation formed by at least two owners who subscribe for the shares and sign the Articles of Incorporation. The article must state the corporation's name, its purpose, the nominal amount of share capital, number and par value of each class of shares, the composition of the board of management and the form in which its notices will be published. The minimum capital stock is 70 000 E. A general meeting of shareholders (Hauptversammlung) must be held annually.

#### **C. *Gesellschaft mit beschaenkter Haftung (Ges.m.b.H)***

The Ges.m.b.H a limited liability company which is formed under the Austrian Limited Liability company law. The shareholders' liability is limited to the unpaid portion of the par value of the shares. Most foreign owned businesses in Austria operate in this legal form. The minimum capital is 35 000 E.

#### **D. *Offene Handelsgesellschaft (OHG)***

This is a general partnership in which all partners are fully liable for the partnership's debts to the full extent of their personal assets. The general commercial partnership is an association of two or more persons (who may be individuals or companies) for the purpose of carrying on business under a common name. There are no restrictions on the number of partners.

#### **E. *Commanditgesellschaft (KG)***

The KG is a limited commercial partnership with at least one general partner (whose liability is unlimited) and one or more limited partners whose liability is limited to the amount of their agreed contribution. The rights and duties of each partner are regulated by the partnership agreement.

**F. *Stille Gesellschaft***

This is a silent partnership which comes into existence when a person makes a contribution to an existing enterprise (company, partnership, sole proprietorship) and shares in the latter's profits and losses. The silent partner has no liability for the debts of the enterprise and the silent partnership is not registered in the trade register.

**G. *GesmbH & Co KG***

This is a limited partnership with, typically, the sole general partner being a limited liability company. It can thus combine certain fiscal advantages with the limited liability of a corporation. The minimum share capital is 35 000 E. This form of business provides the tax advantage of the partners being taxed on their profits individually (i.e., no double taxation).

**H. *Offene Erwerbsgessellschaft (OEG)***

A general partnership in which all partners are fully liable for the partnership's debts to the full extent of their personal assets. It is formed for carrying on business under a common name but only in cases where a "OHG" or a "KG" may not be formed, e.g., for professional services.

**I. *Kommanditerwerbsgesellschaft***

As in the case of an OEG but with all the elements of a KG mentioned under E;

**J. *Foreign Branch***

A branch of a foreign enterprise may carry on business in Austria from purely representative functions to complete manufacturing and selling operations. The foreign enterprise must be registered with the local trade register.

**Austrian Taxation****A. *Corporate Tax***

Corporate tax returns for the tax year (calendar year) must be filed by March 31 of the following year, but this date is extended where professional advisors are employed by the corporation. It may be extended further if valid reasons are given. Financial statements must be submitted with the return. Effective January 1, 1989 a new and simple tax system applies to corporate tax wherein companies pay 34% tax on their income, both distributed and retained.

**B. *Individual Tax***

Individual tax returns are also due by March 31 with the same extension privileges applied as with corporate tax returns. Tax payers whose income consists solely of earnings from Austrian employment taxed under the payroll withholding system are not normally required to file returns. Effective January 1,

2000, the tax rates for individuals range from 0% to 50%. The tax on dividends received from domestic corporations is reduced to one-half the normal average rate.

### **C. Tax Returns**

Information on tax returns may be requested from the Ministry of Finance through the exchange of information procedures.

## **Registration**

### **A. Trade Register (*Handelsregister*)**

The Trade Register is kept at the court where the business is located.

Newly formed corporations must record the articles of incorporation and submit the application signed by all founders, members of the supervisory board and the board of management. When the court decides that all statutory requirements have been complied with, it will order the registration and publication in the Vienna Gazette. Although incorporation does not take place until registration, the corporation is taxable from the date of formation.

A Ges.m.b.H is incorporated by registration in the Trade Register at the court in the locality of its registered office. The application must be accompanied by the company's notarised statutes, a list of shareholders, a list of the appointed managers, an affidavit from the managers that the minimum capital required will be retained, specimen signatures of managers and confirmation by the tax authorities that the capital transaction tax has been paid or guaranteed.

Partnerships must be entered in the local trade register. The application must contain the names, occupations and the addresses of the partners, the firm's name and registered office; and the date on which business started.

Limited partnerships must be registered as stated above but must also record the amounts of agreed capital contribution of each limited partner.

Single merchants are not required to register unless their volume of business is large.

Registration fees are either flat for individual proprietorships or a percentage (a fraction of one percent) of capital for other business entities.

### **B. Alien Registration**

All foreigners must register with the Fremdenpolizei or Foreigners' Police at the Einwohnermeldeamt of the city or locality where they have their residence.

### **C. Chamber of Commerce**

The Austrian Chamber of Commerce is a quasi-governmental body established by public law. All Austrian business people, irrespective of their type of business or their political affiliation, are required to join.

There are nine regional chambers (one in each province). The nine regional chambers of commerce are all members of the Federal Chamber of Commerce in Vienna (Wirtschaftskammer Oesterreich). Each chamber of commerce is divided into six main sections: small enterprise, industry, wholesale and retail trade, finance-credit insurance, transportation and tourist trade.

## **Public Records**

### **A. *Patents***

Patents are granted for a period of eighteen years for products which are considered commercially usable. If accepted, applications are published for opposition for four months. If no opposition is filed or if one is overcome, the application is allowed and a patent is granted. If a patentee does not work his patent within three years from date of grant, or four years from date of application (whichever is later), a compulsory license may be granted upon request by another party. Information regarding patents may be requested from:

Oesterreichisches Patentamt  
Kohlmarkt 8-10  
A-1010 Wien, Austria

### **B. *Trademarks***

Trademarks are protected under the Trademark Protection Law. Austria has adopted the Nice International Classification System for registration purposes (34 product and 8 service classes). Trademark registrations are valid for 10 years from the date the mark is accepted for registration and may be renewed for like periods. The first applicant for the mark is entitled to receive registration and exclusive ownership of the trademark. Information regarding trademarks may be requested from the patent office listed above.

### **C. *Copyrights***

Protection of copyrights in Austria is governed by the Copyright Statute of April 9, 1936, as amended through 1982. Copyright protection is for the author's life plus 70 years. Copyright includes the sole right to produce and reproduce the work or a translation of it, to publish such work or translation, to perform it in public, and to authorise others to do any of the above acts. Information regarding copyright law may be requested from:

Bundesministerium fuer Justiz  
Abteilung 1/4  
Museumstrasse 7  
A61070 Wien, Austria

### **D. *Land Transfer Records***

Land transfers are recorded in the land registrar's book of the district where the property is located. These records contain all information regarding the property such as original purchase price, the cost of improvements, real estate taxes paid, liens or encumbrances, etc. Requests for information should be directed to the Bundesministerium (address above). Copies of these records will be secured through commercial sources or from the district court. Specific address information must be provided.

**E. *Birth, Death and Marriage Records***

These records are public and are listed at the city hall building of the town in which the birth, death or marriage occurred. Information should be requested through the IRS office in Bonn, Germany. The location of the event must be included in the request.

**F. *Company Records, Financial Statements, Shareholder Lists, etc***

Generally, these documents should be requested directly from the company. Some information may be available from the Commercial Register (described above) and may be requested through the IRS office in Bonn, Germany.

**Other Resources**

**A. *Appraisal/Valuation Assistance***

n.a.

**B. *Certification/Authentication of Records***

Documents may be certified at the public office which is responsible for the subject records. A processing fee will be charged for this service.

**Foreign Government Officials and Agencies**

**A. *Federal Ministry of Finance***

The Federal Ministry of Finance is not directly involved in assessment and collection procedures. Its responsibilities are of a more general nature affecting administration as well as general tax policy and legislation. The Federal Ministry of Finance is the competent authority.

**B. *Regional Fiscal Directorates (Finanzlandesdirektionen)***

There are seven regional fiscal directorates which cover the nine Austrian federal provinces. These offices are responsible for the general supervision of local tax authorities. They are also responsible for appeals of decisions made by the tax offices.

**C. *Tax Offices***

There are 86 tax offices responsible for the assessment and collection of taxes, tax audits and investigations, recovery of tax claims and prosecutions within the tax administration.

## **Commercial Sources**

### **A. *Bank Information***

The Austrian Banking Act (Kreditwesengesetz) provides statutory authority for bank secrecy. A bank may not release information on a depositor unless the statute allows for the bank secrecy to be broken. Effectively it may be waived in the case of deliberate offences against the tax law (i.e., penal proceedings instituted against the depositor). A request may be made for a waiver to have the bank release the information by submitting a request through the competent authority.

### **B. *Credit Information***

Credit information may be obtained from commercial sources in Vienna for a fee. They will provide credit information in approximately 10 days, however, it may be obtained in a few days for a premium cost.

**ANNEX B**

Income Tax Treaties between Austria and the following countries:

Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Liechtenstein, Luxembourg, Malaysia, Malta, Netherlands, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, USA.

**ANNEX C: TABLE**

	Are records public?		Are records centralised?		Available electronically?		How are records indexed?			Data required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Place	Date	
Court records (1)		X		X		X	X			
Wills (2)		X		X		X	X			
Patents (3)	X		X				X			
Trade-marks (4)	X		X				X			
Copy-rights (5)	X		X				X			
Commercial register (6)	X			X	X		X			Name
Land transfer records (7)	X			X		X	X			Name
Birth records (8)	X			X	X		X	X		Name of location
Death records (8)	X			X						
Marriage records (9)	X			X						
Bank information (9)		X		X						
Credit information (10)		X		X						
Foreign tax returns (11)		X		X		X				
Alien registration lists (12)	X			X						
Shipping registry (13)	X			X		X	X			Name
Aircraft registry (14)										
Company records (15)		X		X		X				
Company by-laws (15)	X			X		X	X			Name
Company financial statements (15)	X		X			X				
TIN (16)		X	X		X		X	X		Name

## BELGIUM

### A. FORMS OF BUSINESS

#### 1) *Businesses with legal personality*

Under co-ordinated Belgian company law, businesses fall into 6 categories:

##### 1) Société en nom collectif (*general partnership*):

Two or more partners who carry on business under a common name.

All partners have unlimited personal liability for the firm's debts.

The corporate name is confined to the partners' names.

##### 2) Société en commandite simple (*limited partnership*):

Two "active" partners (*commandités*) with unlimited liability, and one or more sleeping partners (*commanditaires*).

The corporate name must include the name of one or more active partners but may not include the name of a sleeping partner.

##### 3) Société anonyme (*public limited company*):

The partners have liability to the extent of their share in the capital.

##### 4) Société en commandite par actions (*share-limited partnership*):

One or more partners, with joint and several liability, and shareholders that have liability to the extent of their share in the capital.

Such companies have now become obsolete.

##### 5) Société privée à responsabilité limitée (*private limited company*):

A company in which the partners have liability to the extent of their share in the capital; their rights in the company are not transferable, except under certain conditions.

##### 6) Société co-operative (*co-operative*):

A company with a varying number of partners and varying shares.

Co-operatives fall into two categories:

- *Société coopérative à responsabilité limitée et solidaire* (SCRIS) (co-operative with joint and several but limited liability).
- *Société cooperative à responsabilité limitée* (SC) (co-operative with limited liability).

## **2) *Businesses without legal personality***

These are:

- 1) special partnerships, of which third parties are unaware, having dealings solely with the general partner.
- 2) temporary partnerships set up solely for one or more specific operations.

Such partnerships without legal personality are not liable for company tax. However, members of such partnerships are liable for personal income tax.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

### ***1) Income tax treaties that include exchange of information provisions***

Belgium currently has some 50 conventions in force, all of which contain an article on exchanging information. The full list is given below. However, it should be pointed out that exchange of information provisions may differ from one convention to another and the scope for such exchange may vary accordingly:

- Most of these conventions authorise the exchange of all tax information necessary to enforce the provisions of the convention and the domestic legislation of the contracting parties, inasmuch as the taxes concerned are covered by the convention and the taxation is not contrary to the convention. The information must be confined to the tax laws targeted by the convention, i.e. in respect of direct taxation (personal income tax, company tax, non-resident tax, tax on legal persons); the taxation giving rise to information exchange must fall within the scope of the convention.
- Some conventions offer very limited scope for information exchange:
  - The Convention with Switzerland allows information exchange solely for the purpose of checking the validity of applications from Belgian or Swiss residents for tax exemptions or tax cuts under the Convention, and consequently does not authorise the exchange of information to enforce the domestic tax legislation of either country.
  - The Convention with the former USSR restricts the scope of information exchange to amendments to respective tax legislation, and consequently rules out the communication of any information on taxpayers.

- List of bilateral conventions:

Australia (Art. 26), Austria (Art. 26), Brazil (Art. 26), Bulgaria (Art. 26), Canada (Art. 26), China (Art. 26), Côte d'Ivoire (Art. 25), Czechoslovakia (Art. 26), Denmark (Art. 26), Egypt (Art. 26), Finland (Art. 27), France (Art. 20), Germany (Art. 26), Greece (Art. 26), Hungary (Art. 26), India (Art. 26), Indonesia (Art. 27), Ireland (Art. 26), Israel (Art. 26), Italy (Art. 26), Japan (Art. 26), Korea (Art. 25), Luxembourg (Art. 26), Malaysia (Art. 26), Malta (Art. 26), Mexico (Art. 25), Morocco (Art. 23), Netherlands (Art. 27), New Zealand (Art. 25), Nigeria (Art. 26), Norway (Art. 27), Pakistan (Art. 26), Philippines (Art. 26), Poland (Art. 26), Portugal (Art. 26), Romania (Art. 27), Senegal (Art. 25), Singapore (Art. 26), Spain (Art. 26), Sri Lanka (Art. 26), Sweden (Art. 26), Switzerland (Art. 27), Thailand (Art. 26), Tunisia (Art. 24), Turkey (Art. 26), United Kingdom (Art. 26), United States (Art. 26), USSR (Art. 22), Yugoslavia (Art. 25).

The following department deals with requests for information:

*Direction générale de l'Administration de la Fiscalité des Entreprises et des Revenus*  
*Direction III/1*  
*Cité administrative de l'Etat*  
*Tour des Finances*  
*Bd. du Jardin Botanique 50 bte 32*  
*1010 Bruxelles*  
*Tel.: 02/210 24 13*  
*Fax: 02/210 41 18*

## **2. Estate tax treaties that include exchange of information provisions:**

Belgium does not have an estate tax. However, because such a tax does exist in some of the countries with which Belgium has signed conventions for the avoidance of double taxation, the information exchange procedure set out in such conventions applies not only to income tax but also to estate tax.

Countries with which Belgium has signed bilateral conventions for the avoidance of double taxation in respect of income tax and estate tax.

Austria, Bulgaria, Czechoslovakia, Denmark, Finland, Germany, Hungary, Indonesia, Israel, Luxembourg, Malta, Netherlands, Nigeria, Norway, Poland, Romania, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, United Kingdom, former USSR, former Yugoslavia (excluding Serbia-Montenegro).

## **3. Tax information exchange agreements:**

Belgium has various administrative agreements, under Council Directive 77/799/EEC of 19 December 1977 (see C1 below) and the bilateral conventions, with five countries:

### **a) Netherlands**

- Agreement of 25 December 1997 between the competent authorities of the Netherlands and Belgium on the exchange of information

- Agreement of 3 June 1998 between the competent authorities of the Netherlands and Belgium on the presence of tax department officials from one country on the territory of the other to conduct tax inquiries.

***b) France***

1979 agreement between the French tax authorities and the Belgian direct taxation authorities on the exchange of information.

***c) Italy***

- Agreement of 9 April and 11 July 1997 between the Belgian and Italian Ministers of Finance on the exchange of information relating to direct taxation.
- Administrative agreement of 9 April and 11 July 1997 between the Belgian and Italian Ministers of Finance for the purposes of simultaneous tax audits.

***d) Sweden***

Agreement of 16 October 1978 with the Swedish tax authorities on the exchange of information.

***e) Norway***

Agreement of 1 June 1986 between the Belgian direct taxation authorities and the Norwegian tax authorities on the exchange of information.

***4. Mutual legal assistance treaties that provide for exchange of information for tax purposes:***

None (but see response to question C, point 3, below).

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

***1) European Council Directive 77/799/EEC of 19 December 1977***

To date, only one source of international law prevails in Belgium, namely the European Directive of 19 December 1977 (amended by Council Directive 79/1070/EEC of 6 December 1979 and Council Directive 92/12/EEC of 25 February 1992) concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, and more specifically the exchange of information. The provisions that incorporate this directive into Belgian law enable the Belgian tax authorities to exchange with their counterparts in other EU Member States any information that permits income tax and estate tax within the EU to be accurately assessed.

As in the case of requests for information based on bilateral conventions, the department dealing with requests for information is:

*Direction générale de l'Administration de la Fiscalité des Entreprises et des Revenus*  
*Direction III/1*  
*Cité administrative de l'Etat*  
*Tour des Finances*  
*Bd. du Jardin Botanique 50 bte 32*  
*1010 Bruxelles*  
*Tel.: 02/210 24 13*  
*Fax: 02/210 41 18*

**2) *Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters***

The OECD Convention on Mutual Administrative Assistance in Tax Matters between Council of Europe Member States and OECD Member countries provides for mutual assistance on all categories of tax, with the exception of import duty.

Belgium signed the Convention on 7 February 1992, but has not yet ratified it.

**3) *European Convention on Mutual Assistance in Criminal Matters, and Additional Protocol***

The European Convention on Mutual Assistance in Criminal Matters, dated 20 April 1959, entered into force in Belgium on 13 August 1975. Article 2 of the Convention stipulates that assistance may be refused if the request concerns a tax offence.

However, the Additional Protocol to the Convention, done in Strasbourg on 17 March 1978 and signed by Belgium on 11 August 1978, extends the Convention to tax offences: under Article 1 of the Protocol, the Contracting Parties undertake not to refuse mutual assistance solely on the ground that the request concerns a tax offence.

Belgium has not yet ratified the Protocol.

**D. DOMESTIC LAWS**

To our knowledge, there is no database or specific source of information on domestic laws enabling a foreign jurisdiction or foreign person to obtain access to information.

To enable us to conduct the necessary research, it would be appropriate if more details were provided on this question (e.g. judicial legislation, financial legislation, etc.).

**E. COMMERCIAL SOURCES OF INFORMATION**

See detailed description in table (points 6, 10 and 15).

**TABLE**

	Are records public?		Are records centralised?		Available electronically?		How are records indexed?			Data required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Place	Date	
Court records (1)		X		X		X	X		X	Special authorisation from public prosecutor
Wills (2)		X	X			X	X			Testator's death certificate
Patents (3)	X		X		X					Name and type of invention
Trade-marks (4)	X		X		X		X			
Copy-rights (5)		X		X		X				
Commercial register (6)	X		X			X				Name and address of company
Land transfer records (7)	X		X		X					
Birth records (8)		X		X		X	X			Name, date of birth
Death records (8)		X		X		X	X			Name, date of death
Marriage records (9)		X		X		X	X			Name, date of marriage
Bank information (9)		X		X		X				Special authorisation from the General Tax Administrator
Credit information (10)		X		X						Company name, and national identification number
Foreign tax returns (11)		X		X		X	X	X		Registration number, name of company or person
Alien registration lists (12)		X	X		X		X			Proof that consultation is necessary
Shipping registry (13)	X		X		X		X			
Aircraft registry (14)	X		X		X		X			
Company records (15)		X		X	X				X	
Company by-laws (15)	X			X			X		X	
Company financial statements (15)	X		X				X		X	
TIN (16)		X		X	X		X			

## 1) Court Records

Court records are theoretically accessible only to the parties to a suit. However, any third parties who deem themselves wronged may have access to them, with the authorisation of the public prosecutor.

Judgements are filed and indexed in each jurisdiction (court registry).

Some major judgements appear in specialist publications (*Pasicrisie*, *Revue critique de jurisprudence belge*, *Journal des tribunaux*, etc.); on tax matters, the publications include *Le Bulletin des Contributions*, *Le Fiscologue* and *La Revue générale de fiscalité*.

## 2) Wills

Wills can be holograph or executed by notaries.

Holograph wills are hand-written and kept by the testator.

Otherwise they are dictated by the testator to a notary who executes them and records them at the *Bureau d'enregistrement* (records office) of the notary's place of residence.

Once notaries have executed a will, they enter it in the central wills register, *Registre central des testaments* (Service du Credoc, rue de la Montagne 32, 1000 Brussels, Tel. 02/505.08.11). The information entered concerning the testator is the latter's name, address, profession and date of birth.

To consult this register, a third party must be in possession of the testator's death certificate (issued by the *commune* in which the death occurred). The search fee is BF 670. Third parties are given only the date of execution of the will, and the name of the notary who has executed and currently holds it. The notary is not obliged to disclose the contents of the will to the third party.

## 3) Patents

Patents are registered with the *Office belge des Brevets du Ministère des Affaires Économiques* (154 blvd E. Jacquain, 1000 Brussels, tel. 02/206.41.11).

Under a law in force since 1 January 1987, patents developed under research programmes are protected for 20 years and the others for 6 years.

The public has access to patents 18 months after their registration. They can be consulted in the patent office reading room, and are also available on CD-Rom.

Searches can be made by citing the type of invention, the inventor's name or the patent registration number.

Belgium is also a member of the European Patent Office, which has an office in Germany (Erhardtstrasse 27, D-8000 Munich) and one in the Netherlands (Patentlaan 2, NL 2280 HV Rijswijk).

## 4) Trademarks

Trademarks are registered with the *Service des marques industrielles et commerciales du Ministère des Affaires Économiques* (154 blvd E. Jacquain, 1000 Brussels, tel. 02/206.48.91). They are protected for 10 years, on a renewable basis.

In Belgium, information on trademarks can be obtained via three facilities:

The first is the *Recueil Bénélux* (Benelux register) which lists all the trademarks registered in Belgium, the Netherlands and Luxembourg (in alphabetical order).

The second (charge-based) is the CD-Rom produced by the Benelux Trademark Bureau, which is obtainable from the Bureau.

The third is the internet site ([www/bwb/bbm.org](http://www/bwb/bbm.org)).

## **5) Copyrights**

Belgium has no domestic copyright office. But copyright is protected under an Act passed on 30 June 1994, various European directives incorporated into Belgian law, and the 1886 Bern Convention (the latest revision of which, in 1971, will soon be ratified).

Copyright is protected for 70 years following the author's death. To guarantee maximum protection of their work, authors may contact a registrar (*officier d'état civil*) or the Ministry of Finance to set their own date of copyright expiry.

## **6) Commercial Register**

Any Belgian company must, within two months of its formation, be recorded in the Commercial Register of the Commercial Court in the *arrondissement* in which the company's headquarters is located.

## **7) Land Transfer Records**

Any land registry information about real estate located in Belgium can be obtained from a regional branch of the Land Registry (*Administration du Cadastre*). This will issue a land registry certificate providing information on the owner's name, plot number, surface area, the *commune* in which the real estate is located, and the various legal transfers it has undergone.

The Land Registry also has a network (CADNET) that can be consulted by officials in the Department of Direct Taxation and shows all the real estate owned by Belgian taxpayers. The network can be consulted upon presentation of the taxpayer's identification number (TIN).

Information on real estate transfers in Belgium can also be obtained from the records office of the taxpayer's place of birth.

Finally, an official from the Tax Department can request a *compte mobile* (statement) on any taxpayer. This lists all the deeds registered under a taxpayer's name, including those relating to property on which he holds a right *in rem*.

## **8) Birth, Death and Marriage Records**

Birth, death and marriage records are kept in the town hall of the individual's place of birth, death or marriage, as the case may be.

To obtain data on a taxpayer's personal status, any official in the Belgian Tax Department may consult the *Répertoire des personnes physiques* (directory of natural persons), on the BELCONET network. Produced by the Central Finance Department's data-processing service, this facility is directly linked to the National Register of Natural Persons. A request for a full certificate from the Register can now be submitted direct

to *Direction VI/6* of the Central Administration (CAE, Tour Finances, Bte 32, Bd du Jardin Botanique 50, 1010 Brussels).

### **9) Bank Information**

Article 318 of the Income Tax Code covers relations between banking institutions and the Tax Department. The provisions of that article prevent the Department from collecting information from the accounts, books or documents of any banking, exchange, credit or savings institution for the purpose of taxing its clients.

There are two exceptions to this rule:

1) The first is set out in Article 318, §2, of the 92 Income Tax Code: if a Tax Department inquiry reveals evidence that a tax evasion mechanism exists or is being prepared, the Director General of the Department may order an inspector to note any information in the institution's accounts, books and documents that will further the inquiry and serve to determine the amount of tax for which the client is liable.

2) Under Article 374, §2, of the 92 Income Tax Code, the Department can require financial institutions to provide any information they may deem relevant to a taxpayer's complaint about a contribution for which he is held liable.

### **10) Credit Information**

This can be obtained either from the specialist press (Dun and Bradstreet, Trends Top 20,000, Kompass) which lists the largest Belgian firms (by turnover, sector of activity or in alphabetical order), or by consulting company statements, which are centralised with the National Bank of Belgium.

### **11) Foreign Tax Returns**

Foreign companies receiving profits from one or more Belgian establishments, or profits from the sale or letting of real estate in Belgium, or profits from partnership in a non-trading company or a partnership without legal personality, must submit a return to the regional income tax office for non-residents of the *commune* in which:

- the sole or main establishment in Belgium is located
- the sole or main office is located, when the taxpayer has no establishment in Belgium
- the headquarters of the non-trading company or partnership without legal personality is located.

Individuals not resident in Belgium must send their returns, as appropriate:

- to the regional office for non-resident income tax in the *commune* of their "place of dwelling", or
- to the Central Tax Office in Brussels (Foreign Department) if they have no "place of dwelling" in Belgium.

### **12) Alien Registration Lists**

The list of aliens residing on Belgian territory is drawn up by the "Registers" directorate of the Directorate-General for National Legislation and Institutions (Ministry of the Interior) (CAE - Tour des Finances, 4<sup>th</sup> floor, Bd du Jardin Botanique 50, 1010 Brussels).

There are in fact three registers:

1. The *Registre de la population* (population register) for those who live or have settled in Belgium (Belgians and aliens);
2. The *Registre des étrangers* (aliens register) for those authorised to reside temporarily in Belgium;
3. The *Registre d'attente* (waiting list) for those applying for asylum or the status of political refugee.

Under a Royal Order dated 6 January 1997, the second and third of these registers may be consulted only by certain public authorities when, by virtue of a legal provision and upon submission of adequate evidence, consultation is necessary for official purposes.

### **13) Shipping Registry**

The list of all registered ships and yachts is kept by the *Administration des Affaires Maritimes et de la Navigation* (rue d'Arlon 104, 1040 Brussels).

Merchant shipping vessels are registered with the *Bureau de conservation des hypothèques* (mortgage registry) in Antwerp (Italilei 4, 2000 Antwerp).

### **14) Aircraft Registry**

Aircraft are registered with the *Administration de l'Aéronautique* (Centre Communication Nord, 4<sup>th</sup> floor, Rue du Progrès 80, 1030 Brussels, tel. 02/206.32.11).

They are registered in the *Registre matricule automatique belge* (Belgian registration number database) in alphabetical order.

The register is available for consultation by the tax authorities.

The "Belgian Civil Register" lists all aircraft in Belgium and is published by the Antwerp Aviation Society (Luchthaven Antwerpen, Bus 30, 2100 Deurne, tel. 03/230.27.31).

### **15) Company Records, By-laws and Financial Statements**

A company's books, recording all or some of its operations (book of original entry, subsidiary journal, subsidiary journal subdivided into special journals, central book or central journal), must be kept at the company's headquarters for 6 years as from 1 January of the year that follows their closing.

A company's memorandum and articles of association (by-laws) must be deposited with the Commercial Court registry and made available to the public. They are published in *Le Moniteur Belge*.

The financial statements (balance sheet, income statement and notes) are deposited, within 30 days of their approval at the annual general meeting, by the directors, managers or liquidators, as the case may be. They are deposited at Belgium's national bank, the *Banque Nationale de Belgique* (bd de Berlaimont 14, 1010 Brussels). Copies of these documents may be obtained from the Bank (*Centrale des bilans* -- financial statements department) upon request, including by mail. The filing of annual accounts is reported in the annexes to *Le Moniteur Belge*.

## **16) Taxpayer Identification Numbers and indexes**

For personal taxation, the relevant tax departments have access to computerised lists, namely:

- The list of “natural persons”, which is confined to personal data, based on and updated with the information received from the National Registry;
- The “tax year” list which includes, for any given tax year, information such as the national TIN, the index number, *commune* in which a person pays tax, etc.

For corporate taxation, the relevant tax department uses the “index of bodies corporate” which is divided into three parts:

- PRESENT information contains up-to-date details on companies, including legal status, VAT number (tax identification number), address of headquarters, etc.
- PAST or outdated information (former address, former name, etc.);
- TAX YEAR information contains tax data on the five previous tax years.

Individual taxpayers (natural persons) liable for non-resident tax are listed in a special index comprising files drawn up by the Principal Inspector in charge of foreign tax returns.

## **CANADA**

### **A. FORMS OF BUSINESS**

List and describe the forms of doing business and terminology used to identify these forms (e.g. corporation, partnership, joint venture).

*Our response*

#### **Sole proprietorship**

A sole proprietorship is an unincorporated business that is owned by one person.

The owner of a sole proprietorship has sole responsibility for making decisions, receives all the profits, claims all losses, and does not have separate legal status from the business.

A sole proprietor pay personal income tax on all revenue generated by the business. The sole proprietor also assume all the risk of the business. This risk extends even to personal property and assets.

A sole proprietor should register for the goods and services tax/harmonized sales tax (GST/HST) if worldwide annual taxable revenues from the unincorporated business are more than \$30,000.

#### **Partnership**

A partnership is an association or relationship between two or more individuals, corporations, trusts, or partnerships who join together to carry on a trade or business with a view of profit. Each partner contributes money, labour, property, or skills to the partnership. In return, each partner is entitled to a share of the profits or losses in the business. The business profits or losses are usually divided among the partners based on the partnership agreement.

The partnership is bound by the actions of any member of the partnership, as long as these are within the usual scope of the operations.

#### **Joint Venture**

A joint venture agreement is an economic activity resulting from a contractual arrangement whereby two or more persons jointly control the economics activity.

Joint control of an economic activity is the contractually agreed sharing of the continuing power to determine its strategic operating, investing and financing policies.

Where persons agree that each provides his own property to perform a specific task and receives a specific division of profits from such a task, that may be considered a partnership as regards such profits; but as long as the property is not held under joint tenancy or tenancy in common, it is not considered to be partnership property.

#### **Corporation**

A corporation is a separate legal entity. It can enter into contracts and own property in its own name, separately and distinctly from its owners.

Since a corporation has a separate legal existence, it has to pay tax on its income, and therefore must file its own income tax return. It must also register for the GST/HST if its taxable worldwide annual revenues (including those of associates) are more than \$30,000.

A corporation is set up by filling out an article of incorporation, and filing it with the appropriate provincial, territorial, or federal authorities.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List bilateral conventions and treaties in force with both Member and non-member countries. Please specify office that field personnel should contact in order to make a request for information.

*Our response*

List of bilateral conventions and treaties in force (65), last updated, June 26, 1999.

Argentina - Australia - Austria - Bangladesh - Barbados - Belgium - Brazil - Cameroon - China People's Republic - Cyprus - "Czechoslovakia" - Denmark - Dominican Republic - Egypt - Estonia - Finland - France - Germany - Guyana - Hungary - Iceland - India - Indonesia - Ireland - Israel - Italy - Ivory Coast - Jamaica - Japan - Kazakhstan - Kenya - Korea - Republic of Latvia - Lithuania - Luxembourg - Malaysia - Malta - Mexico - Morocco - Netherlands - New Zealand - Norway -Pakistan - Papua New Guinea - Philippines - Poland - Romania - Russia - Singapore - South Africa - Spain - Sri Lanka - Sweden - Switzerland - Tanzania - Thailand - Trinidad & Tobago - Tunisia - Ukraine - United Kingdom - United States - "U.S.S.R" - Vietnam - Zambia - Zimbabwe

### **1. *Income tax treaties that include exchange of information provisions:***

All of the above tax treaties and conventions contain exchange of information provisions. All information is exchanged through the Competent Authority of Canada.

See section "Canadian Government Officials & Agencies" at the end of this paper.

### **2. *Estate tax treaties that include exchange of information provisions:***

N/A

### **3. *Tax information exchange agreements or conventions:***

MEXICO

- Convention on Exchange of Information with respect to taxes & Code of Good Practice

All information is exchanged and contacts are done through the Competent Authority of Canada.

### **4. *Mutual legal assistance treaties that provide for exchange of information for tax purposes:***

*Our response*

List of bilateral treaties in force

Austria - Australia - Bahamas - China - France- Hungary - India - Italy - Korea - Mexico - Netherlands - Norway - Poland - Spain - Switzerland - Thailand - Ukraine - United Kingdom - United States

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List multilateral conventions in force to which your government is a party (e.g., Nordic Convention, Council of Europe/OECD Convention on Mutual Assistance in Tax Matters, Hague Evidence Convention, Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents). Please specify office to contact in order to make a request for information.

*Our response*

**COUNCIL OF EUROPE**

- Convention on Mutual Administrative Assistance in Tax Matters (under approval process)

All information is exchanged and contacts are done through the Competent Authority of Canada.

**D. DOMESTIC LAWS**

Describe domestic laws that permit access to information by a foreign jurisdiction or foreign person or that provide a procedure for obtaining such access (e.g., a statute that permits foreign jurisdictions to ask a court to require the disclosure of certain information).

*Our response*

There are no specific Acts that would permit access to information to foreign entities, other than those that would permit access via the mechanisms mentioned above (treaties, exchange agreements, conventions, etc.) The provisions of Canada's Access to Information law only confer rights on Canadian Citizens and permanent residents of Canada (as defined under the Immigration Act).

**E. COMMERCIAL SOURCES OF INFORMATION**

List and describe commercial sources of information. Provide information as to location of information (e.g. credit information, chamber of commerce).

*Our response*

**Disclaimer:** *The information that follows is provided for reference purposes only. Much of it has been adapted from external sources. When references are made to specific companies or products, these references are for illustrative purposes only. They are not to be taken as exhaustive lists of sources, nor does their inclusion imply that the Department is in any way verifying the quality of the service providers cited.*

There are a number of commercial sources of information available, ranging from compilations of generalized descriptive data on both specific companies and on industrial sectors as a whole, to those sources which will provide credit rating services on a case by case basis. The following examples have been chosen to illustrate the wide range of sources. Many of these sources can be accessed on line.

*Company/Financial Databases:*

Compact Disclosure Canada published a CD-ROM database that covers five years, with quarterly updates. It provides financial and descriptive data for over 7,000 Canadian public, private and crown companies. The information is gathered from the Ontario Securities Commission, Industry Canada and the companies themselves.

Moody's International Company Data provides descriptive and financial information on over 7,000 public corporations outside the U.S.A.

Standard and Poor's Compustat PC Plus and Global Vantage include information on a wide range of companies, some of which are Canadian. These databases are updated monthly.

*Library Sources:*

A number of useful publications are available in most public libraries. A few examples follow.

Fraser's Canadian Trade Directory – published by Maclean Hunter.

Canadian Trade Index – Canadian Manufacturer's Association.

Scott's Industrial Directory – Scott's Directories.

Guide to Canadian Manufacturers – Dun & Bradstreet.

Directory of Retail Chains in Canada – Maclean Hunter.

As well, many Internet service providers include access to financial databases as part of their package. Some of the services may be on a pay-per-use basis.

Credit information is held in private databanks, and there is usually a charge to access information. There is a network of local Credit Bureaus in each province. Equifax Canada Inc. provides general credit information services, and local Credit Bureaus are associated with this organization. In order to access information directly from the Credit Bureau in the area where the taxpayer resides, it would be necessary to become a member of that particular Credit Bureau. However, there are a number of firms specializing in conducting credit searches and preparing reports, such as, for example, Dun & Bradstreet. A list of the credit reporting agencies in Canada obtained from a Yellow Pages service on the Web runs to about 180 entries.

## **F. OTHER SOURCES OF INFORMATION**

List and describe other sources of information.

*Our response*

**Disclaimer:** *The information that follows is provided for reference purposes only. Much of it has been adapted from external sources. When references are made to specific companies or products, these references are for illustrative purposes only. They are not to be taken as exhaustive lists of sources, nor does their inclusion imply that the Department is in any way verifying the quality of the service providers cited.*

A great deal of information can be obtained by accessing the websites of various Canadian Federal Government Departments. These often have useful links to both the provinces and territories, as well as to various agencies and non-governmental organizations. The one of the main federal sites is at HYPERLINK <http://publicservice.gc.ca> http://publicservice.gc.ca. This particular provides links to the Cabinet and Parliamentary websites and to all provinces and territories as well as to most federal committees and councils and most of the Canadian municipalities.

#### Industry Canada

Industry Canada maintains a website for business information at \_ HYPERLINK <http://strategis.ic.gc.ca> \_  
\_ <http://strategis.ic.gc.ca> \_ that has a wide range of publications and links to a number of other sources.

The site includes:

company directories;

trade and investment information;

business information by industry sector;

economic analysis and statistics;

research, technology and innovation information that includes the Canadian Patent Database;

business support and financing information; and,

licences, legislation and regulations pertinent to businesses, including a link to the Canadian Intellectual Property Office.

Information mainly targeted toward employees and consumers can also be accessed through this site.

The headquarters address for Industry Canada is:

Industry Canada

235 Queen Street

Ottawa, Ontario

K1A 0H5

Tel: (613) 954-2788

Fax: (613) 954-1894

As well, the Industry Canada maintains regional offices in most major Canadian cities. A list of these addresses is maintained on the main website.

#### *Statistics Canada*

Statistics Canada offers a wide range of statistical products useful for an overall analysis of the Canadian population and of industry trends. Some of these items, such as the 1996 census data and the Statistical Profile of Canadian Communities are free, while others such as the Industry Monitor on CD-ROM, are for sale on the website or can be obtained through the regional offices. They also maintain a library of publications that can be accessed by the public. The Statistics Canada site is at \_ HYPERLINK <http://www.statscan.ca> \_  
\_ <http://www.statscan.ca> \_ , and the main address for library and information services is:

Statistics Canada

Library and Information Centre

2nd Floor, R.H. Coats Building

120 Parkdale Ave

Ottawa, Ontario

K1A 0T6

The main contact phone numbers for the library are:

Circulation Desk (613) 951-8222

Reference Services (613) 951-8219

Inter-Library Loans (613) 951-3248

The Department of Foreign Affairs and International Trade

The Department of Foreign Affairs and International Trade (DFAIT) encompasses a wide range of responsibilities, and falls under the direction of five ministers:

The Minister of Foreign Affairs

The Minister for International Trade

The Minister for International Cooperation and Minister Responsible for La Francophonie

The Secretary of State for Latin America and Africa, and

The Secretary of State for Asia-Pacific.

The DFAIT website can be found at HYPERLINK <http://www.dfati-maeci.gc.ca> http://www.dfait-maeci.gc.ca, and a number of the Departmental publications can be obtained electronically from this site.

DFAIT provides two principal methods of access to its wealth of information resources and reference tools: the InfoCentre and the Departmental Library.

The InfoCentre is a referral service and information resource centre providing Canadians with information on international markets and Canadian foreign policy. The InfoCentre's collection of the publications of DFAIT officers is made available through the Enquiries Centre, the Fax Link, and the website.

The Departmental Library holds a unique collection of materials related to the Department's mandate. Selected services are available to Canadian and foreign clients conducting serious research in the subject areas of foreign affairs and international trade.

In addition to answering and redirecting enquiries, the Enquiries Centre distributes the Department's hard copy publications and requests for written material. The Centre can be contacted as follows:

By mail or in person:

(SXCI)  
Department of Foreign Affairs and International Trade  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

By phone, FAX or email:

Toll free: 1-800-267-8376 (Canada only)  
Regular: (613) 944-4000  
Fax: (613) 996-9709  
Email: HYPERLINK <mailto:sxci.enqserv@extott09.x400.gc.ca>

As well, the InfoCentre maintains two fax-on-demand systems that provide access to Departmental publications:

FaxLink Domestic (Canada only): (613) 944-4500  
FaxLink International: (613) 944-6500

*The Department of Justice of Canada*

The Department of Justice of Canada maintains a website listing the Departmental publications, as well as providing links to various sources of legal information. The laws of Canada can be accessed from this site, [\\_ HYPERLINK http://canada.justice.gc.ca](http://canada.justice.gc.ca) [\\_\\_http://canada.justice.gc.ca\\_](http://canada.justice.gc.ca). The Department can also be contacted by mail or by telephone:

The Department of Justice of Canada  
 284 Wellington Street  
 Ottawa, Ontario  
 K1A 0H8  
 Tel: (613) 957-4222  
 TDD: (613) 992-4556

*The Office of the Superintendent of Financial Institutions (OSFI)*

The Office of the Superintendent of Financial Institutions is the primary regulator of federal financial institutions and pension plans. The OSFI website at [\\_ HYPERLINK http://www.osfi-bsif.gc.ca](http://www.osfi-bsif.gc.ca) contains information on the pertinent laws and regulations, lists of federally regulated financial institutions, information on the demutualisation process for life insurance companies, information pertinent to private pension plans, and various Departmental publications. The OSFI regulates several types of financial institutions in Canada: life insurance companies; property and casualty insurance companies; fraternal benefit societies; banks; trust companies; loan companies; and, cooperative credit associations and societies. Further information on the names of the institutions that are regulated, and the parameters that would cause an organisation to fall within the OSFI's jurisdiction, can be found on the website. The OSFI can also be reached at various regional offices:

Ottawa  
 255 Albert Street  
 Ottawa, Ontario  
 K1A 0H2  
 Tel: (613) 990-7788

Ontario  
 P.O. Box 39  
 121 King Street West  
 Toronto, Ontario  
 M5H 3T9  
 Tel: (416) 973-6662

Montreal  
 Suite 903  
 200, Rene-Levesque Blvd. W.  
 Montreal, Quebec  
 H2Z 1X4  
 Tel: (514) 283-4836  
 Email: [osfipq@smtp.gc.ca](mailto:osfipq@smtp.gc.ca)

Winnipeg  
P.O. Box 52  
155 Carleton Street  
Winnipeg, Manitoba  
R3C 3H8  
Tel: (204) 983-4140  
Email: osfimb@smtp.gc.ca

Vancouver  
P.O. Box 11  
1095 West Pender Street  
Vancouver, British Columbia  
V6E 2M6  
Tel: (604) 666-5335  
Email: osfibr@smtp.gc.ca

Also, there is a toll free number for enquiries assistance service in Canada: 1-800-385-8647.

*Office of the Superintendent of Bankruptcy*

The Office of the Superintendent of Bankruptcy operates within the Department of Industry, Canada umbrella. They maintain a database of all bankruptcies and proposals filed in Canada from 1978 to date. The database also contains a record of all private and court appointed receiverships filed in Canada from 1993 to date. All petitions that have been registered with the office are also included. There is a minimum charge of \$8.00 for a name search. The national headquarters is located at:

Industry Canada  
Office of the Superintendent of Bankruptcy  
365 Laurier Ave. West  
Jean Edmonds Tower South, 8th Floor  
Ottawa, Ontario  
K1A 0C8  
Tel: (613) 941-1000  
Fax: (613) 941-2862  
<http://osb-bsf.ic.gc.ca/>

There are a number of provincial offices whose addresses can be accessed from the main web site.

	Are Records public ?		Are Records Centralized?		Available Electronically?		How are Records Indexed?			Data Required to Obtain Records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
Court Records	yes		yes			no	yes	no	no	see notes
Wills	see notes			no		no	yes	no	no	see notes
Patents	yes		yes		yes		see notes	no	no	see notes
Trademarks	yes		yes		yes		see notes	no	no	see notes
Copyrights	yes		yes		yes		see notes	no	no	see notes
Commercial Register	yes		yes		see notes		yes	no	no	see notes
Corporation Charter	yes		yes		some information only		yes	by province/ federally	no	see notes
Land Transfer Records	yes		yes		yes in some provinces		no	no	no	see notes
Birth Records		no with exceptions	yes			no	yes	no	yes	see notes
Death Records	yes		yes			no	yes	no	yes	see notes
Marriage Records		no with exceptions	yes			no	yes	no	yes	see notes
Bank information		no	yes			no	yes at branch level	no	no	see notes
Credit Information		no		no	see notes		yes	yes	no	see notes
Foreign Tax Returns		no	yes	yes summary			yes	no	no	see notes
Alien Registration Lists										N/A see notes
Shipping Registry	yes		yes			no	yes	no	no	see notes
Aircraft Registry	yes		yes		yes, but not the official records		yes	no	no	see notes
Company Records		no		no	yes some informations		yes	no	no	see notes
Company By-Laws	yes		yes		yes some information		yes	by provinces/ federally	no	see notes
Company Financial Statements	yes public corporation.	no private corporation.		no	yes some information		yes	no	yes, public corporation	see notes
Taxpayer Identification Number		no		no	yes		yes	no	no	see notes
Certified Copies of Public Record	yes		see notes		see notes		see notes	no	no	see notes
Other Public Records	yes			no	yes, normally		yes	no	no	see notes

NOTES TO THE TABLE

**Court Records**

- court records are filed by judicial district in the ten provinces
- the number of judicial districts depends on the size of the province
- records are indexed by the name of the defendant
- the request for information should contain as much information as possible about the requested court record
- this information should include:
  1. name of the defendant (essential)
  2. name of the plaintiff
  3. nature of the offence or cause of action
  4. location where the offence or incident took place
- in order to locate the co-ordinates of the appropriate district court, here are the numbers of the provincial government hotlines :

Alberta.....	(780) 427-2711
British Columbia.....	(604) 660-2421
Manitoba.....	(204) 945-3744
Newfoundland.....	(709) 729-3610
New Brunswick.....	(506) 684-7901
Nova Scotia.....	(902) 424-5200
Ontario.....	1-800-268-8758
Prince Edward Island.....	(902) 368-5050
Quebec.....	(418) 643-1344
Saskatchewan (no government hotline is available - to contact the provincial telephone directory call (867) 555-1212)	

**Wills**

- a will becomes a public document after it has been probated
- in most provinces, wills are filed with the district where the deceased lived
- however, the following can be contacted to assist or direct the requester towards the appropriate district

***Alberta***

Office of the Public Trustee  
Succession Duty Branch  
400 South  
10365, 97th Street  
Edmonton, Alberta  
T5J 3Z8  
Tel.: (780) 422-2824  
Fax: (780) 422-9136

***British Columbia***

Vital Statistics  
P.O. Box 9657  
Station Provincial Government  
Victoria, British Columbia  
V8W 9P3  
Tel. : 1-800-663-8328

***Manitoba***

Queen's Bench  
Probate Division  
Rooms 100-C  
408 York Avenue  
Winnipeg, Manitoba  
R3C 0P9  
Tel. : (204) 945-3184

***Newfoundland***

Supreme Court of Newfoundland  
Probate Office  
P.O. Box 937  
St. Johns, Newfoundland  
A1C 5M3  
Tel. : (709)729-2569

***New Brunswick***

Provincial Building  
110, Charlotte Street  
4 th Floor  
P.O. Box 5001  
St. John's, New Brunswick  
E2L 4Y9  
Tel. : (506) 658-2560

***Nova Scotia***

Public Trustee Office  
5151 Terminal Road  
Suite 201  
P.O. Box 685  
Halifax, Nova Scotia  
B3J 2T3  
Tel. : (902) 424-7760

***Prince Edward Island***

Estates and Wills Registry  
Supreme Court of P.E.I.  
P.O. Box 2000  
Charlottetown, P.E.I.  
C1A 7N8  
Tel. : (902) 368-6004

***Saskatchewan***

Court of Queen's Bench  
Wills and Estates  
2425, Victoria Avenue  
Regina, Saskatchewan  
S4P3V7  
Tel. : (306) 787-5223

***Quebec***

- there are 2 will registries in Quebec

(1) Chambres des notaires du Québec

Chambres des notaires du Québec  
Wills Registry  
800, Place Victoria  
Room 700  
P.O. Box 162  
Montreal, Quebec  
H4J 1L8  
Tel. : 1-800-340-1793

***Ontario***

- there is no central index of wills

- the probated and registered will is located in the district where the deceased lived

- inquiries may be directed to :

Registrar General

P.O. Box 4600  
189, Red River Road  
ThunderBay, Ontario  
P7B 6L8

Tel. : 1-800-461-2156

**(2) Barreau du Québec**

Barreau du Québec  
Wills Registry Office  
445, Blvd St Laurent  
Montreal, Quebec  
H2J 3T8  
Tel. : (514) 954-3400

Information Required in the Search of a Will:

- records are indexed by name of the deceased and date of death
- all requests should contain as much information as possible with regards to the deceased
- information which should be included in the request includes:
  4. Name of the deceased
  5. Date of death
  6. Residence of the deceased
  7. Relation of the requester to the deceased

**Patents, Trademarks and Copyrights**

- all patents, trademarks and copyrights are located at :

Canadian Intellectual Property Office

50, Victoria Street  
Hull, Quebec  
K1A 0C9  
Tel. : (819) 97-1936  
Fax : (819) 953-7620

- patents, trademarks and copyrights are indexed by their number and they can be accessed in one of two ways:

1. requests can be sent by mail to the above-noted address

OR

2. all patents, trademarks and copyrights can be accessed on the internet, with a patent, trademark or copyright number at the following address: <http://www.cipo.gc.ca>

### **Commercial registers**

- all provinces keep a commercial registry
- all registers can be searched by mailing a request for information
- requests should include as much information about the business as possible (such as business name, business number and business location)
- some registries can be accessed by telephone or through the internet

#### ***Alberta***

- although the provincial government keeps a database of commercial licences, it cannot be accessed by the public
- all requests must be addressed to private licence-search agencies (such as *Accu Search License Registry* or *All Licence Search*)
- for more information call the government of Alberta hotline at (780) 427-2711

#### ***British Columbia***

- requests can be transmitted to the following address:

Corporate and Personal Property Registries  
P.O. Box 9431  
Station Provincial Government  
Victoria, British Columbia  
V8W 9V3

- also, search access is available through *BC OnLine* which is an electronic service that provides effective access to many Government of B.C. databases on a fee for service basis from your home or office
- the website address of BC OnLine is: <http://www.bconline.gov.bc.ca>

#### ***Manitoba***

- transmit requests to the following address or fax number:

Companies Office  
405 Broadway  
Room 1010  
Winnipeg, Manitoba  
R3C 3L6  
Tel. : (204) 945-2500  
Fax : (204) 945-1459

***Newfoundland***

- transmit requests to the following address or fax number:

Tel. : (709) 729-3317  
Fax. : (709) 729-0232  
Registry of Deeds and Companies  
P.O. Box 8700  
St. John's, Newfoundland  
A1B 4J6

***New Brunswick***

- transmit requests to the following address or fax number:

Tel. : (506) 453-2703  
Fax : (506) 453-2613  
Department of Justice  
Corporate Affairs  
Business Registration  
P.O. Box 6000  
Fredericton, New Brunswick  
E3B 5H1

***Nova Scotia***

- transmit requests to the following addresses:

Tel. : (902) 424-7770\*  
Internet : [http://www.gov.ns.ca/bacs/rjsc\\*\\*](http://www.gov.ns.ca/bacs/rjsc**)  
Registry of the Joint Stocks Company  
P.O. Box 1529  
Halifax, Nova Scotia  
B3J 2Y4

\* The Nova Scotia business registry can be accessed through an automated telephone system at this telephone number with the business name or registration number.

\*\* The Nova Scotia business registry can also be accessed at this website.

***Ontario***

- transmit requests to the following addresses:

Ministry of Consumer and Commercial Relations  
Companies Branch  
393, University Avenue  
Suite 200  
Toronto, Ontario  
M5G 2M2  
Tel. : (416) 314-8880  
Internet : [http://www.ccr.gov.on.ca\\*](http://www.ccr.gov.on.ca*)

\* The Ontario business registry can be accessed at this website.

***Prince Edward Island***

- transmit requests to the following address or fax number

Corporations Divisions  
Department of Community Services  
P.O. Box 2000  
Charlottetown, P.E.I.  
C1A 7N8  
Tel. : (902) 368-4550  
Fax : (902) 368-5283

***Quebec***

- transmit requests to the following address:

Inspecteur général des institutions financières  
Direction des entreprises  
P.O. Box 1364  
Quebec, Quebec  
G1K 9B3  
Tel. : (418) 643-3625

***Saskatchewan***

- transmit requests to the following addresses

Businesses Registry  
122, 3rd Avenue North  
Saskatoon, Saskatchewan  
S7K 2H6  
Tel. : 1-800-667-4377  
Tel. : (306) 956-2323  
Internet: <http://www.cbsc.org/sask>

**Corporation Charter/Corporation By-Laws**

In Canada, a company can be incorporated under Federal, Provincial or Territorial legislation.

Inquiries for federally incorporated companies should be directed to:

Industry Canada  
Corporation Branch  
Place du Portage  
Tower 2, Phase 2  
Hull, Quebec  
K1A 0C9  
1-613-941-9042 (phone)  
<http://strategis.ic.gc.ca>

Inquiries for provincially incorporated companies should be directed to:

**ALBERTA** Corporate Registry  
P.O. Box 1007 Stn. Main  
10365-97 Street  
8th Floor  
Edmonton, Alberta  
T5J 3W7  
1-780-427-2311 (phone)  
1-780-422-1091 (fax)  
E-Mail [cr@ma.gov.ab.ca](mailto:cr@ma.gov.ab.ca)  
<http://www.gov.ab.ca/ma/reg/cr/office.htm>

**BRITISH COLUMBIA** Corporate and Central Registry  
940 Blanshard Street, 2nd Floor  
P.O. Box 9431 Stn Prov Govt  
Victoria, British Columbia  
V8W 3E6  
web sites  
<http://www.fin.gov.bc.ca/corppg/default.htm>  
[http://www.bconline.gov.bc.ca/htdocs/about\\_the\\_services.html](http://www.bconline.gov.bc.ca/htdocs/about_the_services.html)

**MANITOBA** Consumer and Corporate Affairs  
405 Broadway Avenue  
10th Floor  
Corporations Branch  
Winnipeg, Manitoba  
R3C 3L6  
1-204-945-2500 (phone)  
<http://www.gov.mb.ca/itt/brc/sab/pll4c.html> (web site)

**NEW BRUNSWICK** Department of Justice  
Corporate Affairs  
P.O. Box 6000  
Fredericton, New Brunswick  
1-506-453-2703 (phone)

**NEWFOUNDLAND** Registry of Deed, Companies and Securities  
P.O. Box 4750  
Confederation Building  
St. John's, Newfoundland  
A1C 5T7  
1-709-729-3300 (phone)

**ONTARIO** Ministry of Consumer and Commercial Relations  
Company Branch  
555 Young Branch  
Toronto, Ontario  
M7A 2H6  
1-416-326-8555  
<http://www.cyberbahn.ca/mccr/mccr.htm> (online search)

**PRINCE EDWARD ISLAND** Corporations Division  
Department of Justice  
P.O. Box 2000  
Charlottetown, P.E.I.  
C1A 7N8  
1-902-368-4567 (phone)

**QUEBEC** Ministère des institutions financières  
Direction des compagnies  
800 Place D'Youville  
6ième étage  
Quebec City, Quebec  
G1R 4Y5  
1-418-643-3625 (phone)  
<http://www.igif.gouv.gc.ca>

**SASKATCHEWAN** Consumer and Commercial Affairs  
Corporations Branch  
2nd Floor  
1871 Smith Street  
Regina, Saskatchewan  
S4P 3V7  
1-306-787-2962 (phone)

**NOVA SCOTIA** Registry of Joint Stock Companies  
P.O. Box 1529  
Halifax, Nova Scotia B3J 2Y4  
1-902-424-7770 (phone)  
1-902-424-4633 (fax)  
<http://www.gov.ns.ca/bacs/rjsc/contact.stm>

**NUNUVAYT TERRITORY** 1-867-873-7813 (phone)

**YUKON** 1-867-667-5442 (phone)

**TERRITORY** 1-867-393-6251 (fax)

**NORTHWEST** 1-867-873-7492 (phone)

**TERRITORY** 1-867-873-0243 (fax)

Records are indexed by name.

The data required to obtain records is as follows:

The exact name of company.

The province/territory in which it is incorporated, if it is a provincial/territory charter.

### **Land Transfer Records**

Land Transfer records are a provincial/territorial responsibility. They are centralized at the county or township level. Some provinces/territories have online search facilities available for a fee.

In the following provinces/territories, records are filed with the land titles/registry office in a particular county and are indexed according to legal description of the property. The legal description may include lot number, block number, plan number, concession number, land/property identification number code and county name. We have provided a central telephone number for most provinces/territories which will enable you to determine the specific number of the land titles office where your property is located.

Alberta web site:

<http://www.gov.ab.ca/ma/reg/lt/copies.htm>

Alberta phone number 1-800-465-5009

British Columbia: web site for Land Titles information and on line searches:

[http://www.bconline.gov.bc.ca/htdocs/about\\_the\\_services.html](http://www.bconline.gov.bc.ca/htdocs/about_the_services.html)

British Columbia phone number none found

Manitoba web site for Land Titles information:

<http://www.gov.mb.ca/cca/landtitl.html>

Manitoba phone number 1-204-945-2042 and fax 1-204-948-2140

Ontario web site for Land Titles information:

[http://www.gov.on.ca/owd/resources/opening\\_doors/english/3resourc/2121r.htm](http://www.gov.on.ca/owd/resources/opening_doors/english/3resourc/2121r.htm)

Ontario phone number for Land Titles information 1-416-314-4880

Prince Edward Island phone number for Land Titles Search Agents 1-902-368-4592

Quebec phone number for Land Titles information 1-418-627-6355

Quebec web site for Land Titles information:

<http://www.mrn.gouv.qc.ca/cadastre>

Saskatchewan web site for Land Titles information:

[http://www.gov.sk.ca/spmc/sgd/sls/dir\\_lto.htm](http://www.gov.sk.ca/spmc/sgd/sls/dir_lto.htm)

Saskatchewan phone number for Land Titles information 1-306-787-5513

Nunuvut Territory phone number for Land Titles 1-867-873-7818

Yukon Territory phone number for Land Titles information 1-867-667-5612

Yukon Land Titles fax 1-867-393-6358

Northwest Territories web site for Land Titles information:

[http://www.gov.nt.ca/search97cgi/s97\\_cgi](http://www.gov.nt.ca/search97cgi/s97_cgi)

Northwest Territories phone number for Land Titles information 1-867-873-7491

Northwest Territories Land Titles fax 1-867-873-0243

The following provinces index their land transfer records by name. They also have a cross index under the name of the vendor or purchaser.

New Brunswick

New Brunswick Deed Registration phone number 1-506-453-2658

Nova Scotia web site for Land Information Service Offices:

[http://www.gov.ns.ca/homa/land/1\\_office.htm](http://www.gov.ns.ca/homa/land/1_office.htm)

Nova Scotia Land Information Services phone number 1-902-424-4141

Nova Scotia Land Information Services fax 1-902-424-0531

Newfoundland

Newfoundland Land Titles information phone number 1-709-729-3300

### **Birth, Death and Marriage Records**

These records are maintained at the provincial/territorial level. For the most part, birth and marriage certificates are issued only to the persons registered or to closely related persons, or to persons who have written authorisation from the registrants to obtain the certificates. However, it should be possible to obtain them through a competent authority request if necessary. Death certificates are available to anyone, but certified copies are usually available only to the next of kin.

For example, in the Province of Ontario, a birth certificate may only be obtained by the person named in the certificate, by a person's parents, regardless of the age of the registrant, by any person authorised in writing by the person named on the certificate, and, if the registrant is deceased, by the next of kin. A marriage certificate may be obtained by the bride or groom, or by the children of their marriage (natural or adoptive) or by any person authorised in writing by one of the persons named in the certificate. If a parent is deceased, children may obtain a certified copy of the certificate. Death certificates are available to anyone. Certified copies are available to the next of kin only.

Generally, you will need to provide the full names of the registrant(s), the date and place of the event, and, for births and deaths, the full name of the registrant's father and the maiden and married names of his or her mother.

To obtain copies of birth, death, marriage and name change certificates for events occurring in Ontario contact <http://www.ccr.gov.on.ca/mccr/orgindex.htm> "Office of the Registrar General" of the Ministry of Consumer and Commercial Relations. Proper registration of an event will take 10-14 weeks from the date of the registration. If an event has NOT been properly registered with the Office of the Registrar General, then certificates or any services relating to the event CANNOT be provided, until proper registration is complete. The application forms to obtain certificates are available by phoning and having them mailed or faxed to you, or by visiting any of the offices. (Please note the forms will only be faxed to an Ontario fax number.) Application forms can be sent in by mail or fax (807-343-7459), or brought into one of the offices. If faxing applications in, provide type of credit card for payment (Visa or Mastercard), the credit card number, the expiry date, and the full name on the credit card. Ontario provides same day service for certificates for:

births from 1930 to the present

deaths from 1980 to the present

marriages from 1965 to the present

Additional information is available at: [org@gov.on.ca](mailto:org@gov.on.ca)

Other provinces and Territories will have similar rules. Contacting the Registrar's office in the applicable location for exact details of information required and copies of forms is recommended.

The names and addresses of the Provincial and Territorial Registrars are as follows:

### **Alberta**

W. E. Champion, Director, Registration Services, Alberta Registries, 3rd floor, 10365 - 97th Street, Edmonton, Alberta, T5K 2P2 Tel: (403) 427-2683 Fax: (403) 422-9117 Fees: Birth, Death and Marriage - \$ 20.00. Cheque or Money Order: Provincial Treasurer

### **British Columbia**

Division of Vital Statistics, Ministry of Health, 818 Fort Street, Victoria, B. C. V8W 1H8 Telephone: (250) 952-2681 Fee: \$27.00 / certificate Rushes: \$60.00 Payable to Minister of Finance Requests MUST be made on BC application form; requests for \$60.00 rush service may be made by letter. (1-800-663-8328 - B.C. Residents Only)

### **Manitoba**

Caroline Kaus, Director, Vital Statistics, Agency Consumer & Corporate Affairs, 254 Portage Avenue, Main Floor, Winnipeg, Manitoba, R3C 0B6 Tel: (204) 945-3701 Fax: (204) 945-0424 Fees: Birth, Death and Marriage - \$25.00 Cheque or Money Order: Minister of Finance

### **New Brunswick**

Ms. Alice Garner, Registrar General, Department of Health and Community Services, Centennial Building, 670 King Street P.O. Box 6000, Fredericton, New Brunswick, E3B 5H1 Tel: (506) 453-2385 Fax: (506) 444-4139 Fees: Birth: Small - \$20.00 Large - \$25.00 Marriage: Small - \$20.00 Large - \$25.00 Death: \$25.00 Cheque or Money Order: Minister of Finance

### **Newfoundland**

Mrs. Brenda Andrews, Registrar, Division of Vital Statistics, Department of Health, 5 Mews Pl. P.O. Box 8700, St. John's, Newfoundland, A1B 4J6 Tel: (709) 729-3308 Fax: (709) 729-0946, e-mail [vstats@gsc.gov.nf.ca](mailto:vstats@gsc.gov.nf.ca) Fees: Birth, Death and Marriage - \$20.00 Cheque or money order: Department of Provincial Affairs

### **Northwest Territories**

Ms. Diane L. Baxter, Registrar General of Vital Statistics, Department of Health and Social Services, Government of the Northwest Territories, Bag #9, Inuvik, NT, X0E 0T0 Tel: (867) 777-7420 Fax: (867) 777-3197, Fees: Births, Deaths & Marriages - \$10.00 Cheque or Money Order: Government of N.W.T.

### **Nova Scotia**

Mrs. Elizabeth Crowley Meagher, Deputy Registrar General, Division of Vital Statistics, 1690 Hollis Street P.O. Box 157, Halifax, Nova Scotia, B3J 2M9 Tel: (902) 424-4381 Fax: (902) 424-0678 Fees: Births, Deaths, & Marriages: Small - \$20.00 Large - \$25.00 Cheque or Money Order: Deputy Registrar General

### **Nunavut**

Eric Ukpatiku, Registrar General of Vital Statistics, Nunavut Health and Social Services, Bag #3, Rankin Inlet, NT X0C 0G0 Tel: (867) 645-5002 Fax: (867) 2997

### **Ontario**

Ms. Indira Singh, Deputy Registrar General Ministry of Consumer & Commercial Relations, 189 Red River Road Box 4600, Thunder Bay, Ontario, P7B 6L8 Tel: (416) 325-8305 Fax: (807) 343-7669 Fees: Births, Deaths & Marriages - \$15.00 Photocopies - \$22.00 Cheque or Money Order: Minister of Finance. (1-800-461-2156 - Ontario Residents Only)

### **Prince Edward Island**

Ms. Thelma Johnston, Director Vital Statistics, 35 Douses Rd, P.O. Box 3000, Montague, PEI C0A 1R0 Tel: (902) 838-0880, (902) 838-0881 Fax:(902) 838-0883 Fees: Births & Marriages - Wallet Size \$20.00 - Large/Certified Copy \$30.00 Death: \$30.00 Cheque or Money Order: Provincial Treasurer

### **Quebec**

Guy Lavigne, Direction de l'état civil, Ministère de la Justice, 205 Montmagny Street Quebec, Quebec, G1N 2Z9 Tel: (418)643-3900 Fax: (418) 646-3255 Fees: Births, Deaths & Marriages - \$15.00 Cheque: Minister of Finance

### **Saskatchewan**

Ms. Shelley Gibson, Director Vital Statistics, 1942 Hamilton Street, Regina, Saskatchewan, S4P 3V7 Tel: (306) 787-3092 Fax: (306) 787-2288 Fees: Births, Deaths & Marriages - \$20.00 Large Certificates - \$25.00 Cheque or Money Order: Minister of Finance. (1-800-458-1179 - Saskatchewan Residents Only)

### **Yukon**

Ms. Sylvia Kitching, Deputy Registrar General of Vital Statistics, Department of Health and Human Resources, P.O. Box 2703, Whitehorse, Yukon, Y1A 2C6 Tel: (867) 667-5207 Fax: (403) 393-6486 Fees: Births, Deaths & Marriages - \$10.00 Cheque or Money Order: Registrar of Vital Statistics

### **Bank Information**

Bank information would be available through Revenue Canada through the competent authority process. Such records are not public, and written authorization from the account holder will otherwise be necessary to obtain information. Ordinarily it will be necessary to know the name of the local branch of the bank involved, as there is no centralized indexing system by name. The account numbers would also be useful, especially when a number of entities with similar names might exist, and the complete encoded account number can help to identify both the bank and the branch as well as the account of the taxpayer.

### **Credit Information**

Credit information is held in private databanks, and there is usually a charge to access information. There is a network of local Credit Bureaus in each province. In order to access information directly from the Credit Bureau in the area where the taxpayer resides, it would be necessary to become a member of that particular Credit Bureau. However, there are firms specialising in conducting credit searches and preparing reports.

See the information in response to Question E, commercial sources of information, for more details on some of these firms.

### **Availability of Canadian Tax Returns**

Information related to Canadian tax returns is available under the exchange of information provisions of the treaties. Copies can be obtained as required for the purpose of litigation through the competent authority of Canada.

### **Alien Registration Lists**

The Government of Canada does not maintain a list of aliens.

### **Shipping Registry**

The shipping industry in Canada is federally regulated. All companies incorporated in Canada, as well as individuals and unincorporated businesses resident in Canada, operating commercial marine vessels (over 15 tons) outside Canada's territorial waters must register with Transport Canada. This information is available to the public.

A request to search the database can be completed as follows:

By fax at 1-613-998-0637

By telephone at 1-613-991-3155 or the toll free line at 1-877-242-8770

In writing to Transport Canada

Ship registration

Marine Safety

330 Sparks Street

Ottawa, Canada

K1A 0N8

Please provide details on the exact name of the corporation, company or individual you wish to search. Or, if you have a ship registration number please provide that.

Pleasure crafts with motors over 10 horsepower operating within Canada's territorial waters must register with Canada Customs. This information is not available to the public but may be obtained through the competent authority process. They will contact Canada Customs for the requested information.

Essential details that must be provided are as follows:

Registration number of boat or port that the boat is thought to have been registered at.

### **Aircraft Registry**

All civilian aircraft in Canada must be registered with Transport Canada. Searches of the database may be completed as follows:

By fax at 1-613-990-1007

By correspondence to   AARRC  
Transport Canada Building  
Tower C  
330 Sparks Street  
Ottawa, Ontario  
K1A 0N8  
Online at <http://www.tc.gc.ca/aviation/general/ccarcs/About.htm>

### **Company Records**

The records of any Canadian company, whether public or private, can be accessed through the Competent Authority process of Revenue Canada.

### **Company By-Laws**

Company by-laws will be available through the incorporating body. Please refer to Corporation Charters, for the addresses of the appropriate federal, provincial or territory authorities responsible for incorporations.

### **Company Financial Statements**

Financial statements of public corporations are available through a variety of sources including the following:

Credit rating organizations (See telephone yellow pages or web searches)  
Security Exchange Authorities/Stock Markets Authorities where company is listed  
Consumer and Corporate Affairs(Federal and Provincial counterpart)  
Revenue Canada competent authority process  
Other applicable regulatory bodies

### **Taxpayer Identification Numbers**

These are not generally available publicly. The GST/HST (VAT) registration number must appear on business invoices where the GST/HST is charged, and in that respect is 'public', but the amount of information that can be publicly divulged about such a number is limited to whether or not it is valid. Canada has moved to a Single Business Number, and the GST/HST number will differ from a corporation's corporate return identification number and payroll and customs account number(s) only in respect to the suffix. There is no similar relationship between an individual's GST/HST number and their Social Insurance Number, however. In either case, there would be no other public information available about the holders of the numbers. If the numbers can be obtained from the taxpayers, they will be of use in obtaining information from Revenue Canada sources under the various protocols, especially in cases where there may be entities with similar names.

### **Certified Copies of Public Records**

For the most part, these would be available to a foreign entity if they would be available publicly in Canada. Most of the rest could be acquired through the Competent Authority Process.

### **Other Public Records**

There are various commercial sources of information, such as Street Directories; Stockbroker's Reports; Dun & Bradstreet Reports, etc. Many of these are available online for subscribers to the services. Many of the Canadian Federal Government Departmental web sites contain a great deal of information, as well as links to other governmental and non-governmental sites. Some of the more pertinent are mentioned in the answer to Section F. Most of the information is indexed under the name of the individual or company, although street directories can be accessed by address, and often by telephone number.

### **Canadian Government Officials & Agencies**

#### **A. Department of Finance**

Officials of this department are responsible for tax treaty negotiations. They work closely with Revenue Canada on issues affecting treaty negotiations, international memorandum of understandings as well as legal aspects of treaty negotiations.

#### **B. Revenue Canada**

##### *Policy and Intergovernmental Affairs Directorate*

This directorate is responsible for the development of departmental-wide program policy, tax policy issues (including tax treaty issues), the management of federal-provincial relations, the co-ordination of international relations and supports Canada's participation in international forums such as OECD, PATA, CIAT, etc.

The Legislative Policy Division of that Directorate provides support to the Department of Finance in the negotiation of tax treaties, provides advice on their interpretation, and ensures tax treaty policy issues are addressed. This division is the Competent Authority in Canada concerning the settlement of any problems relating to the interpretation of our conventions and other agreements with the competent authority of the other contracting states, the negotiation of any other agreements with the competent authorities under our tax conventions and any treaty matters other than set out above for the International Tax Directorate.

The competent authority for the above matters in Canada is:

Wayner Adams  
 Director  
 Legislative Policy Division  
 Policy and Intergovernmental Affairs Directorate  
 320 Queen Street, 22<sup>nd</sup> Floor  
 Place de Ville, Tower A  
 Ottawa, Ontario  
 Canada, K1A 0L5

***International Tax Directorate (ITD)***

ITD is structured into 4 major divisions; International Audit Division, International Tax Strategy Division, Transfer Pricing & Competent Authority Division, Non-Resident Assessing & Withholding Division.

This directorate provides functional leadership, policy development and program direction to the international and non-resident field operations. It carries out certain Competent Authority functions under Canada's income tax agreements and supports Canada's participation in international forums such as OECD, PATA, CIAT, etc.

ITD handles Competent Authority requests concerning the resolution of double taxation cases under the mutual agreement procedure contained in the conventions and agreements, the exchange of information under the simultaneous audit programs (civil and criminal), the exchange of any other information under the provisions of the conventions or agreements, and the negotiation of Advanced Pricing Arrangements from and to treaty partners. This directorate is the initial contact for requests for assistance under tax treaties for the above matters.

The competent authority for the above matters in Canada is:

Mr. Gary L. Zed  
Deputy Director General  
International Tax Directorate  
Verification, Enforcement and Compliance Research Branch  
Revenue Canada  
5th floor Canada Building  
344 Slater Street  
Ottawa, Ontario  
Canada K1A 0L5  
Telephone: 1 (613) 952-8738  
Fax: 1 (613) 990-7370

The International Audit Division provides program direction, policy guidelines and technical support to the international and non-resident field audit operations, including audits of international transactions; Part XIII audits (non-resident); and other non-resident audits and enforcement activities related to non-resident waivers and dispositions.

The Non-Resident Assessing and Withholding Division provides program direction and policy guidance to the field to ensure the proper processing and assessing of non-resident, immigrant and emigrant tax returns, including post-assessing validations, non/late filer programs and special matching programs, and an efficient enquiries service. It is also responsible for providing program direction and policy guidance on the non-resident withholding tax accounts and related enforcement.

The Transfer Pricing & Competent Authority Division carries out the mandatory Competent Authority functions under Canada's income tax agreements, offers Advance Pricing Agreements (APA) services to multinationals, provides technical guidance to field operations in transfer pricing matters and supports Canada's participation in international forums such as OECD, PATA, CIAT, etc.

*Investigations Directorate*

This directorate's mandate is to plan and administer criminal investigation programs that will provide maximum deterrence to non-compliance by investigating, penalising and recommending prosecution of significant cases in all categories of taxpayers for deliberate or willful evasion practices. All inquiries and requests must be forwarded through the competent authority, International Tax Directorate.

*Assessment and Collections Branch*

The Revenue Collections Directorate of that Branch is accountable for the development of national programs related to the collection of accounts receivable for all taxes, levies, duties, Employment Insurance Premiums and Canada Pension Plan Contributions due to the Government of Canada including provincial taxes collected on behalf of a province or territory by Revenue Canada. It ensures compliance with the filing and remitting requirements of all amounts withheld or collected in trust on behalf of Revenue Canada, and the determination of eligibility for benefits under the Canada Pension Plan and the Employment Insurance Act. All inquiries must be forwarded through the competent authority, International Tax Directorate.

**C. Department of Justice**

This department is the Competent Authority in Canada concerning the mutual legal assistance treaties that provide for exchange of information for tax purposes.

The competent authority for the above matters in Canada is:

Director  
International Assistance Group  
Department of Justice  
284 Wellington Street  
Room 2044  
Ottawa, Ontario  
Canada K1A 0H8

## **CZECH REPUBLIC**

### **A. FORMS OF BUSINESS**

A business company is a legal person, founded for the purpose of carrying on business activity. Business companies are stipulated by the Commercial Code. They are: general commercial partnership (verejna obchodni spolecnost), a limited partnership (komanditni spolecnost), a limited liability company (spolecnost s rucenim omezenym) and a joint stock company (akciova spolecnost).

A co-operative (druzstvo) is stipulated by the Commercial Code as a partnership of unrestricted number of persons, founded for the purpose either of carrying on business activity or of meeting the economic, social or other needs of its members. The commercial name of a co-operative must include the designation "druzstvo". A co-operative is a legal entity. It is liable for the breach of its obligations with its entire property. Members are not liable for the obligations (debts) of the co-operative.

A general commercial partnership is an entity in which at least two persons carry on business activity under a common commercial name and bear joint and several liabilities for obligations (debts) of the partnership with all their property. A commercial name must include the addendum "verejna obchodni spolecnost" or its abbreviated form "ver. obch. spol." or v.o.s.

A limited partnership is an entity in which one or more partners are liable for the partnership's obligations up to the amount of the unpaid parts of their contributions, as recorded in the Commercial Register (limited partners) and one or more partners are liable for the partnership's obligations (debts) with their entire property (general partners). The commercial name of the limited partnership shall include the designation "komanditni spolecnost" which may be abbreviated as "kom.spol." or "k.s".

A limited liability company is an entity whose registered capital is made up of investment contributions agreed in advance by its members. A company is liable for breaches of its obligations (debts) with its entire property. Each member's liability for the company's debts (as surety) is limited to the unpaid part of his contribution, as recorded in the Commercial Register. The commercial name of a limited liability company must include the designation "spolecnost s rucenim omezenym" or its abbreviation form "spol. s r.o." or "s.r.o.".

A joint stock company is a company whose registered capital is divided into a certain number of shares of a specific nominal value. The company is liable for a breach of its obligations (debts) with its entire property. The shareholder is not liable for the company's obligations. The commercial name of such a company must include the designation "akciova spolecnost" or the abbreviation "akc.spol." or "a.s".

**B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES.**

**CZECH REPUBLIC - DOUBLE TAXATION TREATIES (as to 1<sup>st</sup> June 2002)**

<b>Contracting state</b>	<b>Entry into force</b>
Albania	10.09.1996
Australia	27.11.1995
Austria	12.02.1979
Belarus	15.01.1998
Belgium	17.12.1977
Brazil	14.11.1990
Bulgaria	2. 07. 1999
Canada	22.07.1992
Croatia	28. 12. 1999
Cyprus	30.12.1980
Denmark	27.12.1982
Egypt	04.10.1995
Estonia	26.05.1995
Finland	12.12.1995
Former Yugoslavia	17.04.1983
France	25.01.1975
Germany	17.11.1983
Great Britain	20.12.1991
Greece	23.05.1989
Hungary	27.12.1994
China	23.12.1987
India	13.03.1987
Indonesia	26.01.1996
Ireland	21.04.1996
Island	28.12.2000
Israel	23.12.1994
Italy	26.06.1984
Japan	25.11.1978
Kazakhstan	20. 10. 1999
Latvia	22.05.1995
Lebanon	24. 01. 2000
Lithuania	08.08.1995
Luxembourg	30.12.1992
Malaysia	09.03.1998
Malta	06.06.1997
Moldova	26. 04. 2000
Mongolia	22.06.1998
Netherlands	05.11.1974
Nigeria	02.12.1990
Norway	28.12.1979
Poland	20.12.1993
Portugal	01.10.1997
Republic Korea	03.03.1995
Russia	18.07.1997
Singapore	21.08.1998
Slovakia	01.07.1993
Slovenia	28.04.1998
South Africa	03.12.1997
Spain	05.06.1981
Sri Lanka	19.06.1979
Sweden	08.10.1980
Switzerland	23.10.1996
Thailand	14.08.1995
Tunisia	25.10.1991
Ukraine	20.04.1999
United Arab Emirates	09.08.1997
USA	23.12.1993
Uzbekistan	15. 01. 2001
Venezuela	12.11.1997
Vietnam	03.02.1998

The competent authorities at the Ministry of Finance of the Czech Republic in the sphere of international taxation:

Address:

Ministry of Finance of the Czech Republic  
Central Financial and Tax Directorate  
Lazarská 7  
118 10 Praha 1  
FAX : (420 2) 5704 4491

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES.**

The Czech Republic is a party to Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents.

**D. DOMESTIC LAWS**

See detailed description in the table below.

**E. COMMERCIAL SOURCES OF INFORMATION**

Economia, a.s., Dobrovského 25, 170 55 Praha 7 (see Trade Journal)

	Are Records Public?		Are Records Centralised?		Available electronically?		How are Records Indexed?			Data Required to Obtain Records
	yes	no	yes	no	yes	no	Name	Location	Date	
Court records:										
court documents		no		no		no				
court statistics		no	yes		yes					
crime register		no	yes			no				
Wills		no		no		no				
<b>Ministry of Justice</b>										
Patents	yes		yes		yes					patent N <sup>o</sup> , patent name
Trademarks	yes		yes		yes					trademark N <sup>o</sup> , description
<b>Industrial Ownership</b>										
<b>Office</b>										
Copyrights		no (3)								
<b>Ministry of Culture</b>										
Commercial Register	yes		yes		yes		yes		IN	name of company,IN
<b>Ministry of Justice</b>										
Corporation Charter	yes		yes		yes		yes	yes	IN	name, IN, adress
<b>Ministry of Industry and Trade</b>										
Land transfer records	yes		yes		yes		yes	yes		name, IN (1)
<b>Czech Cadastral Office</b>										
Birth Records		no		no		no				name,surname,IN (2)
Death Records		no		no		no				
Marriage Records		no		no		no				
<b>Ministry of Internal Affairs</b>										
Bank Information		no		no		no				
Credit Information		no		no		no				

DAFFE/CFA/WP8(2000)13/REV1

<b>Czech National Bank</b>									
Foreign Tax Returns		no	yes		yes		yes		IN
<b>Tax authorities</b>									
Alien Registr.Lists		no	yes		yes				
<b>Ministry of Internal Affairs</b>									
Shipping Registry	yes		yes			no			name of the ship
Aircraft Registry	yes		yes			no			type of aircraft
<b>Ministry of Transport</b>									
Company Records									
Company By-Laws									
Company Financial Statements	yes		yes			no			name of company, IN
<b>Trade Journal</b>									
Taxpayer Identification Number		no <sup>(4)</sup>	yes		yes		yes	yes	TIN
<b>Tax authorities</b>									
Certified Copies of Public Records									
Other Public Records									

IN = identification number

(1) the number of the list of ownership in the cadastral territory, the number of the plot, the plot evidence number, - address

(2) date of birth, city of birth, reason of request

(3) the list of copyrights is not available in the Czech Republic

(4) List of VAT and excise duties payers is public, centralised and electronically available

Ministry of Justice, Vyšehradská 16, 128 10 Praha 1

Ministry of Finance, Letenská 15, 118 10 Praha 1

Ministry of Culture, Milady Horákové 220/139, 160 41 Praha 6

Ministry of Industry and Trade, Na Františku 32, 110 15 Praha 1

Ministry of Internal Affairs, Nad Štolou 3, 170 00 Praha 7

Ministry of Transport, Nábřeží L. Svobody 12, 110 15 Praha 1

Czech National Bank, Na Příkopě 28, 110 00 Praha 1

Industrial Ownership Office, A.Cermáka 2a, 160 68 Praha 6

Czech Cadastral Office, Pod sídlištěm 9, 182 11 Praha 8

Trade Journal, a.s.Economia, Dobrovského 25, 170 55 Praha 7

## DENMARK

### A. THE FOLLOWING 3 FORMS OF BUSINESS ARE SUBJECT TO THOROUGH REGULATIONS WITHIN THE COMPANY LAW LEGISLATION IN DENMARK

- Public Limited Company (aktieselskab) and Private Limited Company (anpartsselskab):  
When the company has been registered at the Danish Commerce and Companies Agency the company as such will take full liability for the obligations of the company. The shareholders liability is limited to the invested share capital.

The company can take part in any commercial activity. Specific regulation may apply to finance or insurance activities.

A minimum registered share capital of respectively DKK 500,000/ DKK 125,00 is required and must be fully paid up by the time of the registration. The company must submit an annual financial report to the Agency. The files of the company at the Danish Commerce and Companies Agency are open to the public. The main points of information are available electronically.

- Commercial Foundation (erhvervsdrivende fond):  
When the commercial foundation has been registered at the Danish Commerce and Companies Agency the foundation as such will take full liability for the obligations of the foundation.

A commercial foundation has to have a registered capital of at least DKK 300,000 which has to be definitively separated from that of the founder and the founder cannot withdraw the capital. The foundation must be lead by a board of directors where the majority of directors are independent of the founder.

As the founder has given up all ownership to the possessions of the foundation, the Agency supervises the foundation as a replacement to the shareholders. The foundation must submit an annual financial report to the Agency. The files of the company at the Danish Commerce and Companies Agency are to a large extent open to the public. The main points of information are available electronically.

### B. THE FOLLOWING 6 FORMS OF BUSINESS ARE ONLY SUBJECT TO SCARCE REGULATION IF ANY WITHIN COMPANY LAW LEGISLATION IN DENMARK

- Partnership Limited by Shares (kommanditaktieselskab/partnerselskab) and Limited Partnership (kommanditselskab):

The general partners are fully liable for the debts of the business, while the limited partners only take liability. Even though there are limitations as to the liability of some of the partners, the company is considered fully liable. Natural as well as legal persons may be general or limited partners.

Wherever it is possible the *Partnership Limited by Shares* has to comply with the rules of Public Limited companies, see above, including the capital requirements.

Apart from very few requirements the *Limited Partnership* is not subject to Company Law legislation. As a principal rule, no information is available to the public.

- Co-operative Society (andelsselskab) and Partnership (interessentskab)

As a principal rule the company is considered fully liable. It depends on the individual form of business if certain rules are applicable. Natural as well as legal persons may be partners.

As a principal rule, no information is available to the public.

- Association (forening):

As a principal rule the Association is considered fully liable. It depends on the individual form of business if certain rules are applicable.

As a principal rule, no information is available to the public.

- Sole Trader (enkeltmandsvirksomhed):

As a principal rule, no information is available to the public.

The owner takes full liability.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List bilateral conventions and treaties in force with both Member and non-member countries. Please specify office that field personnel should contact in order to make a request for information.

### ***1. Income tax treaties that include exchange of information provisions:***

Concluded tax treaties as at 16 August 1999

Country	Departmental Order	Date
Argentina	120	3 November 1997
Armenia *	87	18 July 1987
Aserbajdsjan *	87	18 July 1987
Australia	33	22 March 1982
Austria	17	21 march 1962
Bangladesh	10	30 January 1997
Belarus *	69	18 july 1989
Belgium	5	20 November 1971
Bosnia-Herzegovina	70	30 June 1982
Brazil	125	20 December 1974
Bulgaria	100	11 September 1989
Canada	14	3 June 1998
China	15	2 March 1987
Cyprus	15	11 February 1983
Czech Republic	66	11 July 1983
Egypt	49	24 April 1990
Estonia	22	21 February 1994
France	36	27 June 1958
Germany	158	6 December 1996
Greece	41	30 April 1992
Georgia *	69	18 July 1987
Hungary	131	12 November 1979
India	118	10 November 1989
Indonesia	114	30 January 1987

Country	Departmental Order	Date
Ireland	115	3 November 1993
Israel	85	10 November 1963
Italy	60	1 July 1983
Kenya	78	20 September 1973
Kirgistan *	69	18 July 1987
Latvia	20	21 February 1994
Lithuania	21	21 February 1994
Luxembourg	95	23 September 1982
Macedonia	70	30 June 1982
Malaysia	53	4 August 1972
Malta	6	22 February 1999
Morocco	77	15 August 1994
Moldavia*	69	18 July 1987
Netherlands	4	22 April 1998
New Zealand	97	28 October 1981
Pakistan	93	9 November 1987
Philippines	11	30 January 1997
Poland	2	6 November 1977
Rumania	20	23 February 1978
Serbia-Montenegro	70	30 June 1982
Singapore	105	11 November 1986
Slovakia	66	11 July 1983
Slovenia	70	30 June 1982
South Africa	7	29 November 1996
South Korea	45	27 March 1979
Spain	70	16 August 1973
Sri Lanka	59	1 July 1983
Switzerland	117	31 October 1974
Tadsjikistan*	69	18 July 1987
Tanzania	11	7 February 1977
Thailand	7	22 February 1999
Trinidad and Tobago	88	12 October 1971
Tunisia	78	29 July 1971
Turkey	129	14 December 1993
Turkmenistan*	69	18 July 1987
United Kingdom	6	12 February 1981
Ukraine	116	3 October 1996
USA	1	11 January 1949
Usbekistan*	69	18 July 1987
Vietnam	50	23 May 1996
Yugoslavia	70	30 June 1982
Zambia	120	8 December 1974

\* CIS countries: Commonwealth of Independent States

**2. Estate tax treaties that include exchange of information provisions:**

Convention between Denmark and USA of 27 April 1983

**3. Tax information exchange agreements or conventions:**

Memorandum of Understanding of 22 February 1999 between Denmark and the Netherlands for the Streamlining and Intensification of Mutual Assistance in Tax Matters of Direct and Indirect taxation

**4. Mutual legal assistance treaties that provide for exchange of information for tax purposes:**

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List multilateral conventions in force to which your government is a party (e.g., Nordic Convention, Council of Europe/OECD Convention on Mutual Assistance in Tax Matters, Hague Evidence Convention, Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents).

Please specify office to contact in order to make a request for information.

1) Nordic Convention of 7 December 1989 between the Nordic countries on Mutual Assistance in Tax Matters

2) Council of Europe/OECD Convention on Mutual Assistance in Tax Matters

Contact office as “competent authority” under all treaties and conventions about direct taxation is:

Surveillance Unit  
Central Customs and Tax Administration  
Østbanegade 123  
DK-2100 Copenhagen Ø

Requests for information are only handled between the competent authorities under the relevant treaty.

( We are of the opinion that The Hague Convention is only available in “civil and commercial cases”)

**D. DOMESTIC LAWS**

Describe domestic laws that permit access to information by a foreign jurisdiction or foreign person or that provide a procedure for obtaining such access (e.g., a statute that permits foreign jurisdictions to ask a court to require the disclosure of certain information).

17. The Law on Administration of Justice contains in § 347 a provision, that requests from a foreign jurisdiction for the raising of evidence or other legal actions shall be implemented by the provisions of the law and available conventions.

18. According to § 41 in the Law on Administration of Justice the parties and others, who have a legal interest thereof, may receive an extract of the court records, unless the consideration of the states security or the relationship to foreign states or otherwise special regards thereto makes it critical or it is to be feared, that the records shall be used in an unlawful way. The provision is administered by the relevant court (82 City Courts, 2 High Courts and the Supreme Court).
19. Wills are administered by the Central Register for Wills: Centralregistret for Testamenter, Københavns Byret, Domhuset, Nytorv, DK- 1450 København K.
20. The Law on Civil Registration, notice no. 525 of 30 June 1998, authorises the establishment and administration of a centralised civil register, in Danish called “CPR” (Central Person Register). The register was created in 1968 by copying the contents of the manually kept municipal civil registers. It contains current information about each citizen, including the personal identity number (10 ciphers), name, address, marital status (also spouse), place of birth, citizenship, kinship a.o. for all individuals who have or have had residence in Denmark or Greenland.

Obtaining records from the register is depending on identification of the relevant individual by name and address or birth dates in which case there might be given some standard information. Further information is depending on the documentation of a “legal interest”. Information on the identification number is never given.

Central government offices and the municipalities have by authorisation computer access to the register.

Foreign jurisdiction and foreign individuals may address a request for information in single cases to any civil register in the country (the municipalities) or the CPR office of the Interior Ministry: address: Datavej 20, Postbox 269, DK-3460 Birkerød.

21. Regulations for the registration of Danish Ships are to be found in the Maritime Law, compare Law no. 901 16 December 1998 about amendment of the Maritime Law and the abolishment of the Law on Ship Registration and the Promulgation Order from the Danish Maritime Authority No. 273 of 11 April 1997. Access to information about registrations made, see under section “Table”.
22. The Alien Register is administered and applied by The Immigration Service (Udlændingestyrelsen), Ryesgade 53, 2100 Copenhagen Ø. Moreover it is applied by The Ministry for the Interior, The Board for Refugees and The National Commissioner of the Danish Police.

The register contains information about foreign citizens about whom there are or have been treated a case under the law on immigrants.

There is no public access to the register.

A request from a foreign authority to obtain information from the register shall be addressed to the Danish authority where the information is supposed to be placed. The decision will be taken according to the instructions issued by virtue of § 4 in the law on immigrants, and the law on administration or the law on publicity.

## **E. COMMERCIAL SOURCES OF INFORMATION**

List and describe commercial sources of information. Provide information as to location of information (e.g. credit information, chamber of commerce).

1. Købmandstandens Oplysningsbureau A/S, Gl. Mønt 4, DK-1117 Copenhagen K
2. RKI, Kredit Information A/S, Glarmestervej 2, DK-8600 Silkeborg
3. Danmarks Rederiforening (Danish Shipowners Association), Amaliegade 33, DK-1256, København K

## **F. OTHER SOURCES OF INFORMATION**

List and describe other sources of information.

Table

Fill in the attached form and briefly describe the public records referred to in the table, including location of records and name of the office that maintains the records and procedures for obtaining certified copies of records.

### Re Patents and Trademarks:

4. EU-trademarks are recorded by the Office for Harmonisation in the Internal Market (OHIM), Avenida de Aguilera 20, E 0380 Alicante, Spain
5. Information on patents and on other trademarks than under 1), such as designs, Utility Models, Popographies of Semiconductors (chips) and Funnel Marks is to be obtained from: Patentdirektoratet (the Danish Patent Office), Helgeshøj Alle 81, DK-2630 Taastrup

### Re Land Transfer:

Records are administered of the relevant city court, determined after the lands position on the map. There are 82 city courts.

### Re Shipping Registry:

There are two registers:

- 1) The Danish Register of Shipping
- 2) The Danish International Register of Shipping

All new registrations of ownership and mortgages are published once every second week in a national publication (Statstidende) and a yearly published book contains a complete list of all bigger ships registered (Danmarks Skibsliste).

Both registers are open to the public, so anybody can either phone or show up in person in order to seek information on any ship being registered. Internet access is not technical possible yet.

Information is to be obtained from: The Royal Danish Register of Shipping, vermundsgade 38 C, Postbox 2605, DK-2100, København Ø.

Re Aircraft Registry:

There are two registers:

6. Nationalitetsregistret for luftfartøjer (Danish Register of aircraft). The register contains records with particulars on Registration Mark, Registration Number, Aircraft Type, Serial Number/Year of Construction, Maximum Take-off Mass, No. of Seats and Name and Address of Owner/Operator
7. Rettighedsregistret (Aircraft Register of Rights). The register contains records with particulars on mortgages and titles.

Information from the two registers is to be obtained by extracts at a cost of 100 DKK from:

Statens Luftfartsvæsen (Civil Aviation Administration)  
Aeronautical Information Service  
Ellebjergvej 50  
DK-2450 Copenhagen SV

Re Company Records, Company By-laws and Company Financial Statements:

Information is to be obtained from: Erhvervs- og Selskabsstyrelsen (The Danish Commerce and Company Agency), Kampmannsgade 1, DK- 1604 København V

Re "Other Public Records": SE register (Ordinary Register for Businesses)

Anybody, physical or legal persons, who is liable to withhold tax or to pay excise duties is obliged to register at the custom- and tax authorities within 8 days after the business has started. They will be assigned to a number with 8 ciphers that are used for administration purposes – identification.

Information on the number may be obtained from the relevant customs and tax region (29 covering each geographically part of the country) by identify the name, and by informing about the single number information is to be obtained about the name and address.

## **FINLAND**

### **A. FORMS OF BUSINESS**

List and describe the forms of doing business and terminology used to identify these forms e.g. corporation, partnership, joint venture.

Corporation (osakeyhtiö or Oy or Oyj, aktiebolag or AB), partnership (avoin yhtiö or Ay, kommandiittiyhtiö or Ky), cooperative (the name usually includes the word “osuus” or “kunta”), joint venture (usually only in construction industry, yhteeniittymä).

### **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List bilateral conventions and treaties in force with both Member and non-member countries. Please specify office that field personnel should contact in order to make a request for information.

1. Income tax treaties that include exchange of information provisions: Argentina, Australia, Austria, Barbados, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Czech, Denmark including the Faroe Islands, Egypt, Estonia, France, Germany, Greece, Hungary, Iceland, India, Indonesia, the Republic of Ireland, Israel, Italy, Japan, Korea, Republic of, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Morocco, the Netherlands, New Zealand, Norway, Pakistan, the Philippines, Poland, Portugal, Rumania, Russia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tanzania, Thailand, Turkey, Ukraine, the United Arab Emirates, the United Kingdom, the United States of America, Uzbekistan, (Yugoslavia) and Zambia.

2. Estate tax treaties that include exchange of information provisions: Denmark, France, Iceland, the Netherlands, Norway, Sweden, Switzerland and the United States of America.

3. Tax information exchange agreements or conventions: Finnish-Italian Mutual Agreement on the Exchange of Information of 12 December 1997 (based on the Finnish-Italian Double Taxation Agreement)

4. Mutual legal assistance treaties that provide for exchange of information for tax purposes:

### **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Nordic Convention, Council of Europe/OECD Convention on Mutual Assistance in Tax Matters (National Board of Taxes, Ministry of Finance).

Hague Evidence Convention, Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents (Ministry of Justice).

### **D. DOMESTIC LAWS**

Describe domestic laws that permit access to information by a foreign jurisdiction or foreign person or that provide a procedure for obtaining such access e.g., a statute that permits foreign jurisdictions to ask a court to require the disclosure of certain information.

Act on the Publicity of the Activities of Public Authorities is the main law on this area. It is based on the openness and gives extensive right of access to public documents.

**E. COMMERCIAL SOURCES OF INFORMATION**

List and describe commercial sources of information. Provide information as to location of information e.g. credit information, chamber of commerce.

Suomen Asiakastieto Oy (credit information company)

Central Chamber of Commerce (general information)

**F. OTHER SOURCES OF INFORMATION**

List and describe other sources of information.

**Table**

	Are Records Public?		Are Records Centralised?		Available Electronically?		How are Records Indexed?			Data Required to Obtain Records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
Court Records	x		x			x	x	x	x	Local Courts, Appeal Courts, Supreme Courts; Name of the parties, name of the court of justice, date of the sentence
Wills		x								Local Courts; the registering of wills is voluntary; name and the last place of residence of the deceased
Patents	x		x		x		x		x	PATENTTI JA REKISTERIHALLITUS National Board of Patents and Registration of FINLAND; Name of the patent holder, date of registration
Trademarks	x		x		x		x		x	National Board of Patents and Registration of Finland; Name of the trademark holder, name of the product, date of registration
Copyrights		x		x		x				Copyrights (authors' rights) are not registered
Commercial Register	x		x		x		x		x	National Board of Patents and Registration of Finland); Name of the enterprise; electronic version must be subscribed to separately
Corporation Charter	x		x		x		x		x	National Board of Patents and Registration of Finland; Name of the enterprise; electronic version must be subscribed to separately
Land Transfer Records, i.e. Registry for registration of title to property and Mortgage Register	x		x		x			x		Ministry of Justice; land register number, TIN, address or name of the piece of the real estate; foreign legal person must have a permission to use the registry in an electronic form
Birth Records		x	x		x					VÄESTÖREKISTERIKESKUS (Population register centre); In the case of EU Member countries a permission is not required for giving information in bulk; information concerning one person is generally available; congregations of churches register their members and give information on each of them; in the case of non-members, information is given by city administrative courts.

Death Records		x	x		x					Population Register Centre; In the case of EU Member countries a permission is not required for giving information in bulk; information concerning one person is generally available; congregations of various churches register their members and give information on each of them; in the case of non-members, information is given by city administrative courts.
Marriage Records		x	x		x					Population Register Centre; In the case of EU Member countries a permission is not required for giving information in bulk; information concerning one person is generally available. congregations of various churches register their members and give information on each of them; in the case of non-members, information is given by city administrative courts
Bank Information		x		x		x	x	x	x	NATIONAL BOARD OF TAXES
Credit Information	x		x		x		x			Suomen Asiakastieto Oy (a private company)
Foreign Tax Returns		x	x		x		x			National Board of Taxes; this information is part of the overall tax information; name or TIN
Alien Registration Lists		x	x		x					see Birth Records, Marriage Records or Death records; the same system is used in the case of resident aliens
Shipping Registry	x			x		x				MERENKULKUHAL-LITUS (Finnish maritime administration); provincial government of Finland; Ships may be registered either on the mainland or on the Aland Islands; name of the ship, owner, place or year of building, former name of the ship;
Aircraft Registry	x		x			x	x			ILMAILULAITOS (Civil aviation administration of Finland); national registration mark, name of the owner
Company Records		x		x		x				All companies keep their own records; they are not public
Company By-Laws	x		x		x		x			National board of patents and registration of Finland; Name of the enterprise; electronic version must be subscribed to separately
Company Financial Statements	x		x		x		x		x	(National board of patents and registration of Finland); name of the enterprise, financial period; electronic version must be subscribed to separately
Taxpayer Identification Number		x	x		x					Social insurance institution
Certified Copies of Public Records	x			x		x				A certified copy is given by the office which is responsible for keeping the public records in question

Other Public Records:										
Marriage Settlements	x		x		x					OIKEUSREKISTERI- KESKUS (Register centre under Ministry of Justice); Name, TIN or number in the Commercial register; for the use of electronic information a separate permission must be applied for  Ministry of Justice; the registry is not entirely public; name and TIN; foreign persons are not entitled to receive information in bulk electronically; like residents they only have the right to ask for a certificate of execution (in a local execution office)
Donations (between spouses)	x		x		x					
Debt Arrangements	x		x		x					
Bankruptcies	x		x		x					
Reorganisations (winding up, liquidation)	x		x		x					
Business Prohibitions	x		x		x					
Notary Public (used in Finland only in real estate deals)	x		x		x					
Registry of Executions	x		x		x					

## FRANCE

The above document prompts the following observations:

### **Section B - Bilateral Conventions and Treaties that permit exchange of information for tax purposes**

- 1) Income and wealth tax treaties that include exchange of information provisions
- 2) Estate tax treaties that include exchange of information provisions

**NB:** The replies to items 1 and 2 are combined in annex, since many tax treaties signed by France with other foreign States simultaneously cover income tax, wealth tax and estate tax.

**(cf. Document 1)**

- 3) Tax information exchange agreements or conventions

The automatic information exchange agreements signed by France with foreign governments are listed under this heading.

**(cf. Document 2)**

Administrative channels for processing requests for information by foreign countries:

- a) *List of competent authorities for France*

**(cf. Document 3)**

- b) *Offices responsible for processing requests for information:*

\* for OECD Member countries: DGI (*Direction Générale des Impôts*), *Sous-direction du Contrôle Fiscal, Bureau CF3, Cellule d'assistance administrative*, 139 rue de Bercy, 75574 PARIS CEDEX 12

Tel: 01 53 18 08 99

Fax: 01 53 18 05 87

Tax attachés responsible for specific countries

**(cf. Document 4)**

\* for non-OECD countries: DGI, *Direction de la législation fiscale*, Bureaux E 1 and E 2, 139 rue de Bercy, 75574 PARIS CEDEX 12

- 4) Mutual legal assistance treaties that provide for exchange of information for tax purposes

The following list only concerns treaties and agreements that enable tax administrations to have access to information gathered in response to international letters rogatory necessary to initiate proceedings against offences.

- a) *Multilateral conventions*

- Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (entry into force in France: July 1967)

This convention was supplemented by two additional agreements:

- between France and Germany on 24 October 1974

- between France and Austria on 18 November 1983

- Convention applying the Schengen Agreement of 14 June 1985 between 5 countries (France, Germany, Belgium, the Netherlands and Luxembourg), which extends mutual assistance in criminal matters to tax offences.

*b) Bilateral conventions*

France is a party to 27 agreements governing international letters rogatory, 26 of which are with countries that are not parties to the Convention on Mutual Assistance in Criminal Matters.

**(cf. Document 5)**

*c) Multilateral Conventions that permit exchange of information for tax purposes:*

- The Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters

France is currently examining the technical aspects of the possibility of ratifying this convention.

France is not a signatory to any other conventions.

**DOCUMENT No. 1**

**LIST OF TAX CONVENTIONS  
CONTAINING EXCHANGE OF INFORMATION PROVISIONS  
SIGNED BY FRANCE  
IN FORCE AT 1 JANUARY 1999**

Meaning of abbreviations: A: Additional agreement; AA: Administrative Arrangement;  
C: Convention; COR: Corrigendum;  
EL: Exchange of letters; ET: Estate tax; GT: Gift tax;  
IA: Individual agreement;  
IT: Income tax; RF: Registration fees; WT: Wealth tax.

<b>STATE OR TERRITORY</b>	<b>Date of Convention (C), Individual agreement (IA), Additional agreement (A) or exchange of letters (EL).</b>	<b>Date of publication in Official Gazette (COR = Corrigendum)</b>	<b>Taxes concerned</b>
Algeria	C 17 May 1982 AA 22 March and 16 May 1982 AA 22 February and 11 May 1983	23 February 1984	IT-ET-RF
Argentina	C 4 April 1979	10 March 1981	IT-WT
Australia	C 13 April 1976  A 19 June 1989	4 December 1977 and COR 26 February 1978  28 September 1990	IT
Austria	C 26 March 1993  C 26 March 1993	14 December 1997  20 December 1994	IT-WT  ET-GT
Bahrain	C 10 May 1993	6 August 1994	IT-WT-ET
Bangladesh	C 9 March 1987	30 August 1988	IT
Belgium	C 10 March 1964  A 15 February 1971  C 20 January 1959  C 12 August 1843 (confirmed by Article 14 of the Tax Convention of 20 January 1959)	15 August 1965 and COR 9 October 1965  6 December 1973  19 August 1960 and COR 9 January 1962	IT  ET-RF  Exchange of information
Benin	C 27 February 1975	10 January 1978	IT-ET-RF
Bolivia	C 15 December 1994	30 November 1996	IT-WT
Brazil	C 10 September 1971  AA 5 February and 4 March 1974	28 November 1972	IT
Bulgaria	C 14 March 1987	19 April 1988	IT
Burkina Faso	C and EL 11 August 1965	1 June 1967	IT-ET-RF

	A 3 June 1971	17 May 1975	
Cameroon	C 21 October 1976	11 September 1979	IT-ET-RF
	A 31 March 1994	26 January 1997	
Canada	C 2 May 1975	10 October 1978	IT-WT-GT-ET
	A 16 January 1987	13 October 1988	
	A 30 November 1995 (1) <sup>1</sup>	16 November 1998	
<i>Province of Quebec</i>	Tax agreement 1 September 1987	29 October 1988	IT
Central African Republic	C 13 December 1969 and EL 13 and 16 December 1969	25 May 1971	IT-ET-RF
China	C 30 May 1984	28 February 1985 and COR 9 March 1985	IT
Congo	C 27 November 1987	15 September 1989	IT-ET-RF
Côte d'Ivoire	C and EL 6 April 1966	22 January 1969	IT-ET-RF
	A 25 February 1985 A 19 October 1993	25 February 1989 6 May 1995	
	IA 16 May and 14 June 1995	30 November 1995	IT Public remuneration
Cyprus	C 18 December 1981	30 March 1983	IT-WT
Czech Republic	C 1 June 1973	2 October 1975	IT-WT
Denmark	C 8 February 1957	10 August 1958	IT-WT
Ecuador	C 16 March 1989	8 May 1992	IT
Egypt	C 19 June 1980	25 January 1983	IT-WT
Finland	C 11 September 1970	22 April 1972	IT-WT
	C 25 August 1958	27 August 1959	ET
French Polynesia	C 28 March and 28 May 1957	15 August 1957	Tax on income from movable assets
Gabon	C and EL 21 April 1966	24 April 1969	IT-ET-RF
	A 23 January 1973	13 September 1973	
	A 2 October 1986 and EL 18 April and 23 June 1989	1 February 1990	

1. The provisions of the Additional Agreement of 30 November 1995, which entered into force on 1 September 1998, apply to the following:

- amounts paid as from 1 September 1998, for withholding tax;
- income earned during the 1999 calendar year or any accounting year beginning after 1 September 1998, as the case may be, for income tax not collected through withholding tax;
- taxes on income earned as from 1 January 1999 for other taxes.

Germany	C and EL 21 July 1959 A 9 June 1969 A 28 September 1989	8 November 1961 and COR 9 January 1962 22 November 1970 7 November 1990	IT-WT
Ghana	C 5 April 1993	27 October 1994	IT
Greece	C 21 August 1963	2 February 1965	IT
Hungary	C 28 April 1980	6 January 1982	IT-WT
Iceland	C 29 August 1990	23 June 1992	IT
India	C 29 September 1992	6 August 1994	IT-WT
Indonesia	C 14 September 1979	14 April 1981	IT-WT
Iran	C 7 November 1973	30 April 1975	IT
Ireland	C 21 March 1968	10 September 1971	IT
Israel	C 31 July 1995	18 September 1996	IT-WT
Italy	C and EL 5 October 1989 C 20 December 1990	8 May 1992 and COR 27 February 1993 4 April 1995	IT-WT ET-GT
Jamaica	C 9 August 1995	9 October 1998	IT
Japan	C 3 March 1995	16 May 1996	IT
Jordan	C and EL 28 May 1984	10 April 1985	IT
Korea (Republic of)	C 19 June 1979 A 9 April 1991	6 February 1981 3 June 1992	IT
Kuwait	C 7 February 1982 EL 17 August and 18 October 1988 A 27 September 1989 A 27 January 1994	15 September 1983 and COR 1 December 1983 13 July 1989 26 September 1991 10 March 1995	IT-WT-ET
Lebanon	C 24 July 1962	8 January 1964 and COR 4 February 1964	IT-WT
Luxembourg	C 1 April 1958 A and EL 8 September 1970	9 April 1960 8 January 1972	IT-WT
Madagascar	C and EL 22 July 1983	11 December 1984 and COR 9 March 1985	IT
Malawi	France's relations with Malawi continue to be governed by the France-UK Convention of 14 December 1950. EL 5 November 1963 EL 31 December 1963	21 August 1951 15 December 1963 26 February 1964	IT
Malaysia	C 24 April 1975 A 31 January 1991	24 April 1977 23 June 1992	IT
Mali	C and EL 22 September 1972	17 May 1975	IT-ET-RF
Malta	C 25 July 1977 A 8 July 1994	16 November 1979 25 September 1997	IT-WT
Mauritius	C 11 December 1980	27 October 1982	IT-WT
Mayotte	C 27 March and 8 June 1970 (Convention signed with the former territory of Comoros)	23 June 1971	IT-ET-RF

Mexico	C 7 November 1991	6 March 1993	IT
Monaco	C and EL 18 May 1963  EL 9 December 1966 EL 9 December 1996 A 25 June 1969  EL 6 August 1971  C 1 April 1950	27 September 1963 and COR 20 December 1963 24 February 1967 21 March 1968 25 December 1969  8 January 1972  10 June 1953	Tax convention not primarily intended to prevent double taxation
Mongolia	C 18 April 1996	1 January 1999	IT-WT
Morocco	C and EL 29 May 1970  AA 5 and 14 December 1983 A 18 August 1989	24 December 1971  22 December 1990 and COR 28 January 1991	IT-ET-RF
Netherlands	C 16 March 1973	21 April 1974	IT-WT
New Caledonia	C 31 March and 5 May 1982	27 July 1983	IT-ET-RF-GT
New Zealand	C 30 November 1979	16 May 1981	IT
Niger	C and EL 1 June 1965  A 16 February 1973	1 December 1966 and COR 8 January 1967  13 March 1977	IT-ET-RF
Nigeria	C 27 February 1990	19 July 1991	IT
Norway	C 19 December 1980  A 14 November 1984 A 7 April 1995	25 October 1981  27 October 1995 17 October 1996	IT-WT
Oman (Sultanate of)	C and EL 1 June 1989	1 August 1990	IT-ET
Pakistan	C 15 June 1994	18 October 1996	IT
Panama	EL 6 April 1995 and 17 July 1995 (does not constitute a convention)	28 December 1996	IT
Philippines	C 9 January 1976 A 26 June 1995	4 October 1978 26 June 1998	IT IT-WT
Poland	C 20 June 1975	1 December 1976	IT-WT
Portugal	C 14 January 1971  IA and EL 3 June 1994	4 January 1973  2 March 1995	IT  ET-GT
Qatar	C 4 December 1990 and EL 12 January 1993	22 December 1994	IT-WT-ET
Romania	C 27 September 1974	21 October 1975	IT-WT
Saint-Pierre-et-Miquelon	C 30 May 1988	14 January 1989	IT-ET-RF-GT
Saudi Arabia	C 18 February 1982 EL 20 December 1988 and 22 February 1989 A 2 October 1991 and EL 16 June 1993 and 31 October 1993 and EL 3 January 1994 and 3 May 1995	6 July 1983  14 June 1989  3 September 1995	IT-WT-ET

Senegal	C and EL 29 March 1974 EL 29 March 1974  A 16 July 1984  A 10 January 1991	30 November 1976 11 May 1978  25 February 1986  27 February 1993	IT-ET-RF
Singapore	C 9 September 1974	3 October 1975	IT
Slovakia	C 1 June 1973	2 October 1975	IT-WT
South Africa	C 8 November 1993	23 November 1995	IT-WT
Spain	C 10 October 1995 <sup>2</sup>  C 8 January 1963	11 July 1997  7 January 1964 and COR 22 January 1964	IT-WT  ET
Sri Lanka	C 17 September 1981	30 January 1983	IT
Sweden	C 27 November 1990 and EL 14 and 18 March 1991  C 24 December 1936 A 1 July 1963  C 8 June 1994	8 April 1992 and COR 22 August 1992  10 October 1937 11 November 1964  16 March 1996	IT-WT  ET  ET-GT
Switzerland	C 9 September 1966 A 3 December 1969  A 22 July 1997 <sup>3</sup>  IA 11 April 1983 supplemented by EL 25 April and 8 June 1984 and amended by EL of 2 and 5 September 1985  C 31 December 1953 <sup>4</sup>  A 22 July 1997 <sup>5</sup> IA 30 October 1979	10 October 1967 2 and 3 November 1970  27 August 1998  25 February 1987  29 March 1955  27 August 1998 26 February 1982 and 25 October 1994	IT-WT    IT Cross-border workers  ET  ET-GT

2. The provisions of the Convention of 10 November 1995, which supersedes the Convention of 27 June 1973 amended, apply to the following:
  - amounts paid as from 1 July 1997, for withholding tax;
  - income earned in 1998 or in the accounting year beginning in 1998 for income tax not collected through withholding tax;
  - for other taxes, taxes on income earned as from 1 January 1998.
3. The provisions of the Additional Agreement of 22 July 1998, which entered into force on 1 August 1998, apply to the following:
  - amounts paid as from 1 August 1998, for withholding tax;
  - income earned during the 1998 calendar year or any accounting year beginning as from 1 August 1998, as the case may be, for income tax not collected through withholding tax;
  - taxes on income earned as from 1 August 1999 for other taxes.
4. Regarding Article 2 of this Convention, cf. *Bulletin Officiel des Contributions Directes* (BOCD) 1955-II, No. 5 and *Bulletin Officiel de l'Enregistrement et Douanes* (BOED) 1955-1-6858.

Thailand	C 27 December 1974	21 November 1975	IT
Togo	C 24 November 1971 and EL 25 and 26 November 1971	6 August 1975	IT-ET-RF
Trinidad and Tobago	C 5 August 1987	18 April 1989	IT
Tunisia	C 28 May 1973  AA 29 May and 24 June 1985	13 November 1975	IT-ET-RF
Turkey	C 18 February 1987	6 July 1989	IT
United Arab Emirates	C and EL 19 July 1989  A 6 December 1993	19 July 1990  21 June 1995	IT-WT-ET
United Kingdom	C 22 May 1968  A 10 February 1971  A 14 May 1973  A 12 June 1986 A 15 October 1987  C 21 June 1963	24 and 25 November 1969  2 and 3 August 1971  28 February 1974  20 June 1987 4 February 1988  1 August 1964 and COR 10 September 1964	IT         ET
United States	C 31 August 1994 and EL 19 and 20 December 1994  C 24 November 1978	22 March 1996  1 October 1980	IT-WT  ET-GT
Former USSR (CIS Member States)	C 4 October 1985  EL 14 March 1967	28 May 1987  21 March 1968	IT  Tax regime of Soviet patents in France and vice versa
Venezuela	C 7 May 1992	12 January 1994	IT
Viet Nam	C 10 February 1993	20 December 1994	IT-WT
Former Yugoslavia	C 28 March 1974	13 September 1975	IT
Zambia	France's relations with Zambia continue to be governed by the France-UK Convention of 14 December 1950. EL 5 November 1963  EL 31 December 1963	21 August 1951  15 December 1963  26 February 1964	IT      IT
Zimbabwe	C 15 December 1993	16 March 1997	IT-WT

**DOCUMENT 2**

- 
5. The provisions of the Additional Agreement of 22 July 1998, which entered into force on 1 August 1998, apply to the following:
- amounts paid as from 1 August 1998, for withholding tax;
  - income earned during the 1998 calendar year or any accounting year beginning as from 1 August 1998, as the case may be, for income tax not collected through withholding tax;
  - taxes on income earned as from 1 August 1999 for other taxes.

**Automatic information exchange agreements  
between France and foreign governments  
List of countries having automatic information exchange agreements with France**

**I - Income tax**

Country	Reference of agreement	Comments
Austria	Arrangement of 9 March and 14 April 1962	
Belgium	Agreement of June 1971  Exchange of letters of 21 July and 10 December 1978	Concerns cross-border workers Direct exchange of information at local level.  Applicable for the first time to information on income earned during 1979 calendar year
Denmark	Arrangement of 13 November 1958 and 9 February 1959	
Finland	Arrangement of 3 January and 31 December 1959	These provisions continue to apply under the Convention of 11 September 1970
French Polynesia	Agreement of 4 March and 3 June 1959	
Gabon	Exchange of letters of 11 May and 8 July 1967	
Federal Germany.....	Exchange of letters of 30 December 1966 and 13 February 1967	Only concerns cross-border workers
Germany	Exchange of letters of 25 September 1998	Scope broadened to intra-Community VAT, VAT refunds, 8 <sup>th</sup> Directive, changes of residence of natural persons
Monaco	Articles 21 and 22 of the Convention of 18 May 1963	
Morocco	Exchange of letters of 25 January and 28 February 1974	
Netherlands	Exchange of letters of 11 July and 2 July 1996	
New Zealand	Exchange of letters of 2 March and 3 April 1984	
Niger	Exchange of letters of 11 May 1967 and 16 July 1968	
Norway	Exchange of letters of 1 July and 4 October 1983	
Senegal	Exchange of letters of 17 November 1978, 24 March and 20 April 1979	Application of the new Convention of 29 March 1974
Sweden	Article 18 of the Convention of 24 December 1936 Agreement of 17 April 1998	VAT refund, 8 <sup>th</sup> Directive, change of residence of natural persons
United States	Article 8 and 10 of the French-US Tax Convention of 18 October 1946	These provisions continue to apply under the Convention of 29 July 1967
Upper Volta	Exchange of letters of 11 May and 26 July 1967	

**II - Registration fees and estate tax**

<b>Country</b>	<b>Reference of agreement</b>	<b>Comments</b>
Austria	Arrangement of 9 March and 14 April 1962	
Belgium	Article 14-2 of the Convention of 20 January 1959 (Reference of the Convention of 12 August 1843)	
Finland	Arrangement of 3 January and 31 December 1959	
Gabon	Exchange of letters of 11 May and 3 July 1967	
Monaco	Article 9 of the Convention of 1 April 1950	Information to be forwarded to the <i>Direction des services fiscaux</i> of Alpes-Maritimes
Morocco	Exchange of letters of 25 January and 28 February 1974	
Niger	Exchange of letters of 11 May 1967 and 16 July 1968	
Senegal	Exchange of letters of 17 November 1978, 24 March and 20 April 1979	Application of the new Convention of 29 March 1974
Sweden	Article 8 of the Convention of 24 December 1936	
United Kingdom	Article 8 of the Convention of 21 June 1963	
Upper Volta	Exchange of letters of 11 May and 26 July 1967	

**DOCUMENT 3**

**1) Competent authorities: persons competent to authorise mutual administrative assistance in France (exchange of information provided for under international tax conventions and EU Directives 77/799 of 19 December 1977 and 79/1070 of 6 December 1979**

**- OECD Countries -**

M. Jean-Pascal BEAUFRET

Directeur général

Tel.: 33 1 53 18 64 78

M. Bernard PAYS

Directeur adjoint chargé de la sous-direction du contrôle fiscal

Tel.: 33 1 53 18 00 09

M. Antoine GLAIZE

Chef du Bureau CF 3

Tel.: 33 1 53 18 05 20

M. Hervé GOUZIEN

Directeur divisionnaire des impôts

Tel.: 33 1 53 18 08 99

M. Eric LESPRIT

Inspecteur principal des impôts

Tel.: 33 1 53 18 09 00

Address:

Direction générale des impôts

Bureau CF 3 Télédéc 872

139, rue de Bercy

75572 PARIS CEDEX 12

Fax: 33 1 53 18 05 87

**2) Competent authorities: persons competent to authorise mutual administrative assistance in France**

**- Non-OECD Member Countries -**

M. Hervé LE FLOC'H-LOUBOUTIN

Directeur de la législation fiscale

M. Bruno GIBERT

Sous-direction de la législation fiscale (Bureau E)

M. Stéphane CARRERE

Chef du Bureau E 1 (Non-OECD European countries)

M. Benoît BOHNERT

Chef du Bureau E 2 (Non-OECD countries outside Europe)

Address:

Direction de la législation fiscale

Sous-direction E

Bureau E 1 Télédéc 568

139, rue de Bercy

75572 PARIS CEDEX 12

Tel.: 01 53 18 92 03

Fax: 01 53 18 96 90

**DOCUMENT 4**

**LIST OF TAX ATTACHÉS**

**BELGIUM and  
NETHERLANDS**

M. Michel DUPONT, Directeur divisionnaire  
Ambassade de France  
42 boulevard du Régent - 1000 BRUXELLES (Belgium)  
Telephone: 00 32-2-512-63-53  
Fax: 00 32-2-513-31-00

**UNITED STATES and  
CANADA**

M. Noël CLAUDON, Directeur divisionnaire  
Ambassade de France  
4101 Reservoir Road N.W.  
WASHINGTON DC 20007-2183 (U.S.A.)  
Telephone: 00 1-202-944-63-90  
Fax: 00 1-202-944-63-73

**GERMANY**

M. Claude WOLFF, Directeur divisionnaire  
Ambassade de France  
An der Marienkapelle 3 - 53179 BONN (Germany)  
Telephone: 00 49-228-955-64-61  
Fax: 00 49-228-955-64-69

**ITALY**

Mme Gisèle BLANC, Directeur divisionnaire  
Ambassade de France  
Palais Farnèse, Piazza Farnèse 67  
00186 ROMA (Italy)  
Telephone: 00 39-06-687-14-73  
Fax: 00 39-06-687-42-10

**UNITED KINGDOM**

Mme Chantal MARCHAND, Directeur divisionnaire  
Ambassade de France  
Kingsgate House, 115 High Holborn  
LONDON WC1 V 6.J.J. (UK)  
Telephone: 00 44-171-831-90-48  
Fax: 00 44-171-831-21-43

**SPAIN**

M. Joaquin CESTER, Directeur divisionnaire  
Ambassade de France  
Calle Alcalà, N° 54 (3° Dcha)  
28014 MADRID (Spain)  
Telephone: 00 34-91-523-19-45  
Fax: 00 34-91-523-27-37

## DOCUMENT 5

**Multilateral Conventions comprising provisions on  
international letters rogatory**

<b>Country</b>	<b>Date of signature</b>	<b>Publication in Official Gazette (<i>Journal Officiel</i>, JO) or other</b>
Algeria	28 August 1962	JO 30 August 1962
Benin	27 February 1975	JO 10 January 1978
Cameroon	21 February 1974	JO 17 December 1975
Central African Republic	18 January 1965	JO 19 May 1967
Chad	6 March 1976	JO 30 April 1978
Congo	1 January 1974	JO 10 February 1982
Côte d'Ivoire	24 April 1961	JO 5 and 6 February 1962
Djibouti	27 September 1986	JO 21 August 1992
Ecuador	13 April 1937	JO 8 March 1938
Egypt	15 March 1982	JO 19 July 1983
Gabon	23 July 1963	JO 2 March 1965
Hungary	31 July 1980	JO 12 February 1982
Iceland	28 March 1877 23 January 1928	JO 5 April 1878 JO 24 April 1928
Italy	12 January 1955	JO 17 May 1959
Liberia	5 July 1897	JO 10 July 1900
Madagascar	4 July 1973	JO 30 July 1975
Mali	9 March 1962	JO 10 July 1964 and corrigendum. JO 27 February 1965
Mauritania	19 July 1961	JO 6 February 1962 and corrigendum. JO 20 February 1962
Monaco	21 September 1949	JO 2 April 1953
Morocco	5 October 1957	JO 14 January 1960
Niger	19 February 1977	JO 26 April 1980
Peru	30 September 1874	JO 23 January 1876
Portugal	13 July 1854	JO, 11e s., B, 228, No. 2076
Romania	5 November 1974	JO 18 November 1975
San Marino	25 May 1967	JO 15 March 1969
Senegal	29 March 1974	JONC 30 November 1976
Spain	9 April 1969	JO 24-28 August 1970
Togo	23 March 1976	JO 25 February 1982
Tunisia	28 June 1972	JO 17 March 1974
Upper Volta	24 April 1961	JO 5-6 February 1962
Yugoslavia	29 October 1969	JO 1 December 1970

## **GERMANY**

### **A. FORMS OF BUSINESS**

The principal forms of doing business in Germany are the following:

- Sole proprietorship
- General commercial partnership (Offene Handelsgesellschaft - OHG)
- Limited partnership (Kommanditgesellschaft - KG).
- Limited liability company (Gesellschaft mit beschränkter Haftung - GmbH)
- Stock corporation (Aktiengesellschaft - AG)

Other forms include the limited partnership in which limited partners' interests are represented by transferable shares (Kommanditgesellschaft auf Aktien - KGaA), the civil law partnership (Gesellschaft bürgerlichen Rechts – GbR).

The GmbH and AG have separate legal identities. Although the OHG and KG do not have full legal capacity, they may conclude transactions and may also sue and be sued in their firm names.

#### **1. Einzelfirma**

This is a sole proprietorship. The owner of the business has unlimited liability for any debts. If he carries on certain business transactions enumerated in Sections 1 and 2 of the Commercial Code, he must be registered in the Commercial Register (Handelsregister), provided the business has reached a certain size.

#### **2. Offene Handelsgesellschaft (OHG)**

The OHG is a general partnership. An OHG can be formed by concluding a partnership agreement. An OHG can acquire rights, incur liabilities, and - with the exception of a civil law partnership - sue or be sued in its own name. All partners are fully liable for the partnership's debts to the full extent of their personal assets. The general commercial partnership is an association of two or more persons (who may be individuals or companies) for the purpose of carrying on any commercial business under a common name. There are no restrictions on the number of partners. The firm's name and the address of its legal seat must be recorded in the commercial register, together with the names, addresses, and professions of the individual partners; the date that business commenced and, when appropriate, a list of officials authorised to sign documents on behalf of the firm. Financial statements need not be filed with the commercial register or published unless the OHG is a large enterprise.

#### **3. Kommanditgesellschaft (KG)**

The KG is a limited commercial partnership with at least one general partner (Komplementär) whose liability is unlimited and one or more limited partners (Kommanditisten) whose liability is limited to the amount of their agreed contribution as registered in the commercial register. A KG can be formed by concluding a partnership agreement. The partners may be individuals or legal entities. A KG can acquire rights, incur liabilities, and - with the exception of a civil law partnership - sue or be sued in its own name. Financial statements need not be filed with the commercial register or published unless the KG is a large enterprise.

#### **4. Gesellschaft mit beschränkter Haftung (GmbH)**

The formation and operation of a GmbH is governed by the Limited Liability Companies Law. A GmbH is formed by one or more founders (individuals or corporate bodies). The founders must prepare a constitution document, the articles of association (Gesellschaftsvertrag). Each founder must adopt the articles and sign them before a notary public. The first managers must, through the notary public, file an application for the registration of the GmbH in the commercial register at the court for the district in which the company will have its legal seat.

A GmbH is liable to its creditors only to the extent of its own property. The shareholders' liability is limited to the unpaid portion of the par value of the shares. Every transfer of a share in a GmbH must be recorded by a notary public. Transfers may be restricted.

The minimum capital is DM 50,000. The day-to-day management of a GmbH is conducted by at least one manager (Geschäftsführer). A corporate entity cannot act as a manager.

A GmbH is required to have a supervisory board in addition to its board of managers if the number of its regular employees exceeds 500. A List of shareholders with their holdings must be filed annually with the register. The requirements for the filing of annual financial statements in the commercial register vary according to whether the company in question is regarded as large, medium-sized, or small.

#### **5. Aktiengesellschaft (AG)**

The stock corporation (AG) is the preferred form of business entity if large amounts of capital need to be raised, in particular from the capital markets.

The capital of an AG is represented by negotiable shares. Minimum capital is DM 100,000. Both bearer shares and registered shares may be issued. However, bearer shares are the more usual ones.

Formation procedures are similar to those for a GmbH, but at least five founder-members are required. The founders must appoint the first supervisory board and auditors. The supervisory board appoints the board of managers (Vorstand), which may consist of one or more individuals. The board of managers is responsible for conducting the business of the corporation.

An AG's financial statements must be filed with the commercial register, and an annual shareholders' meeting must be held in Germany.

#### **6. Kommanditgesellschaft auf Aktien (KGaA)**

This is a limited partnership in which the limited partners' interests are represented by transferable shares. The position of a limited partner of a KGaA is comparable to the shareholders in an AG. Thus, many of the legal requirements applying to the AG apply to the KGaA accordingly.

#### **7. GmbH & Co KG**

The general partner in a limited partnership may be a limited liability company. If so, the partnership is referred to as a *GmbH & Co. KG*. Often, the limited partners own the shares of the GmbH.

## **8. Gesellschaft bürgerlichen Rechts (GbR)**

The civil law partnership is used for small enterprises that do not run a commercial business as defined in the Commercial Code. A GbR has no separate legal personality and its assets belong to its partners as their communal property. A GbR does not have to be recorded in the commercial register.

## **9. Stille Gesellschaft**

This is a silent partnership which comes into existence when a person makes a contribution to an existing enterprise (company, partnership, sole proprietorship) and shares in the latter's profits and losses. The silent partner has no liability for the debts of the enterprise. The silent partnership itself does not participate in any business activities. Hence, it is not recorded in the commercial register. The silent partner's profit share is regarded as a deductible expense for income tax purposes.

An atypical silent partnership exists if the silent partner can exert influence over the business of the active partner and is entitled to a share of the active partner's assets. If so, the silent partners' share in the profit is not a deductible expense.

## **10. Foreign Branch**

A foreign enterprise may establish a branch in Germany by having it registered in the commercial register of the district in which it is to be located. Evidence is required that the enterprise would be eligible for registration if it were a German resident enterprise. No registration is required where the activities of the representatives of the foreign corporation do not go beyond the mere handling of information or similar functions. Foreign corporations which are obligated to register their branch with the Commercial Register are required to maintain for the activities of their branch a set of books in accordance with German accounting principles.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES<sup>6, 7</sup>**

### **1. Income tax treaties that include exchange of Information provisions:**

Germany has concluded income tax treaties with the following countries: Argentine, Australia, Austria, Bangladesh, Belgium, Bolivia, Brazil, Bulgaria, Canada, China, Cyprus, Czechoslovakia, Denmark, Ecuador, Egypt, Estonia, Finland, France, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Liberia, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Namibia, the Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela, Vietnam, Yugoslavia, Zambia, Zimbabwe.

---

<sup>6</sup> According to most treaties concluded with non OECD member countries exchange of information is limited to the application of the treaty.

<sup>7</sup> Requests for information should be made through the competent authority process.

**2. Estate tax treaties that include exchange of information provisions**

The tax treaties with Denmark and Sweden cover also Inheritance and Gifts Tax. The estate tax/inheritance tax treaties with Austria, Greece, Switzerland and United States of America include exchange of information provisions.

**3. Tax information exchange agreements or conventions**

Agreements have been concluded with Austria, Finland and Italy.

**4. Mutual legal assistance treaties that provide for exchange of information for tax purposes**

Germany has adopted the European Convention on Mutual Assistance in Criminal Matters. Furthermore, the Schengen Convention regarding the gradual dismantling of the controls on the common borders (Convention applying the Schengen Agreement) does also permit exchange of information for criminal tax purposes. In addition, Germany has concluded Conventions on supplementing the European Convention on Mutual Assistance in Criminal Matters with Austria, France, Israel, Italy, the Netherlands and Switzerland, and Conventions on Mutual Assistance in Criminal Matters with Belgium, Monaco, Tunisia and Yugoslavia (legal assistance with Yugoslavia, however, is at present inactive due to the rupture of diplomatic ties).

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Germany is not party of multilateral conventions which provide for assistance in tax matters.

**D. DOMESTIC LAWS**

**1. German Patent Office**

The German Patent Office is responsible for legal protection of industrial property.

By way of mutual administrative assistance, the German Patent Office supplies information in all areas of legal protection of industrial property; this applies in particular to patent applications, applications for utility-model patents, trademark registration, topology applications and design patent applications.

**2. Patents**

According to § 31 of the Patents Law, anybody with a legitimate interest may obtain information about patents registered in the patent register.

Address: Deutsches Patentamt, Zweibrückenstrasse 12, 80331 Munich.

**3. Trademarks**

According to § 3 of the Trademark Law, anybody with a legitimate interest may obtain information about trademarks entered in the trademark register.

Address: Deutsches Patentamt, Zweibrückenstrasse 12, 80331 Munich.

#### **4. Utility models**

According to § 8 paragraph 5 of the Utility Model Law, anybody may obtain information about registered utility models.

Address: Deutsches Patentamt, Zweibrückenstrasse 12, 80331 Munich.

#### **5. Local court - commercial register**

According to § 11 of the Commercial Register Ordinance, entries in the commercial register must be published. This is done in the Federal Gazette.

Bundesanzeiger Verlagsgesellschaft mbH  
Südstrasse 119

53175 Bonn

There are commercial credit agencies who will supply information for a fee, and on-line services such as GENIOS are available. Some information may also be found on the Internet.

The commercial register informs the public about legally relevant circumstances in commercial enterprises. It is a public register available for perusal by third parties. Entry in the register is made at the local court as court of registration. The commercial register consists of two sections (A and B). Sole proprietors and partnerships are registered in Section A; incorporated enterprises are registered in Section B.

#### **6. Commercial register A**

The following entries may be found in the commercial register:

- legal relationships of partnerships and sole proprietors,
- also data on the firm, place of operation, object of the enterprise,
- owner of the business, personally liable partners, managing board, liquidator and general commercial power of attorney.

#### **7. Commercial register B**

The entries relate to

- legal circumstances of the incorporated enterprise including insurance coverage,
- also data on the firm, corporate seat, object of the enterprise,
- equity capital or nominal capital,
- board of managers, personally liable shareholders, managing director, liquidator and general commercial power of attorney.

#### **8. Local court - register of associations**

The register of associations is the public register kept by the local courts, in which non-profit associations are entered in order to acquire legal capacity; it shows their

- name,
- seats,
- bylaws and
- managing board.

#### **9. Local court - maritime shipping register and inland shipping register**

According to § 8 of the Shipping Register Ordinance, anybody with a legitimate interest may request information on registered ships.

The register includes details of the ship (including law of the flag), home port, type and place of construction, commercial purpose, ownership structure.

#### **10. Maritime shipping register**

Seagoing vessels with hulls up to 15 metres long may be registered; seagoing vessels with hulls more than 15 metres long must be registered.

#### **11. Inland shipping register**

Water-craft with 5 m<sup>3</sup> to 10 m<sup>3</sup> water displacement (dead weight) may be registered. Water-craft with more than 10 m<sup>3</sup> water displacement must be registered.

The owner of the water-craft decides whether the vessel which is required to be registered is registered in the maritime shipping register or in the inland shipping register.

Which local court is responsible depends on the home port of the ship. One should note that at least three-fourths of all German sporting boats are not registered with a local court.

#### **12. Local court - land register**

According to § 12 of the Land Register Ordinance, anybody with a legitimate interest may obtain information about entries.

The land register is a state register of real rights in land which is kept by the land records office. Any change in the legal status of real property must be entered in the land register in order to be valid. Entries in the land register are presumed to be correct for legal purposes.

As a rule the land records office does not institute action, rather, it responds to applications. Application may be made by a person who obtains a right through entry in the land register, as well as by a person who loses a right thereby.

#### **13. Details of birth, death, marriage and address (residents' registration office)**

According to § 61 of the Law on Social Status and § 21 of the Framework Law on Residents' Registration, anybody with a legitimate interest may obtain information from the local residents' registration offices.

Requests should be directed to the local residents' registration offices.

#### **14. Central Alien Register - Office of Federal Administration**

According to § 26 of the Law on the Central Alien Register, any government agency with a legitimate interest may obtain information from this register.

Central record of foreigners who stay or have stayed more than just temporarily (more than three months) on German soil.

The following information may be supplied:

- the number under which they are registered,
- basic personal data,
- the Alien Office at which they are registered,
- date of entry or departure, date of death.

Any enquiries must by all means include, besides the name, the date of birth and the nationality.

Enquiries should be directed to:

Bundesverwaltungsamt  
Barbarastrasse 1

50735 Cologne

#### **15. Aircraft register - Federal Office of Civil Aeronautics**

This covers aeroplanes, helicopters, motor gliders and airships. Information can be given only if the markings (always "D" with four letters) are specified. The records give details of the aircraft, ownership, regular location and use, e.g. aerial photography, fire-fighting etc., passenger traffic.

#### **16. Tracing and information service of the Federal Motor Transport Authority - not public**

The Federal Motor Transport Authority has set up a tracing and information service within its Central Vehicle Register.

This offers the following possibilities for information from the Central Vehicle Register:

- identification of the registered owner of standing or moving vehicles,
- identification of the registered owner who flees the scene of an accident or in similar cases,
- identification of the registered owner of a vehicle involved in the commission of a crime,
- identification of the last registered owner of vehicles which are found or which are connected with the commission of a punishable offence,
- identification of vehicles presently licensed on the basis of the name, birth date and address of the registered owner,
- information on stolen or lost vehicles and licence plates,
- information on vehicle registration documents in order to identify possible misuse or forgery,
- information on persons on the basis of the name, date of birth, place of birth and address - in particular the postal code - of the registered owner of a vehicle,

- information on vehicles with insurance registration plates as well as their owners and insurance companies,
- information on vehicles with special registration plates such as the export registration plate, as well as other registration plates for repeated use,

Information is furnished only in response to a relevant request for mutual administrative assistance.

#### **17. Annual reports - balance sheets - (Company Financial Statements)**

According to § 325 of the Commercial Code and § 9 of the Disclosure Law, certain data from the annual financial statement of an incorporated enterprise must be published and entered in the Commercial Register. The data must be published in the Federal Gazette.

See above for the Commercial Register.

§ 326 of the Commercial Code exempts small incorporated enterprises from some of the requirements on publishing data from the annual financial statement.

#### **E. COMMERCIAL SOURCES OF INFORMATION**

Credit inquiry agencies, on-line information services such as the GENIOS databases or Creditreform.

Commercially available telephone books on CD-ROM, telephone number identification via Telekom (only supplied in mutual administrative assistance).

#### **F. OTHER SOURCES OF INFORMATION**

Information on German firms and groups are offered by a private enterprise (Verlag Hoppenstedt GmbH, Havelstrasse 9, 64295 Darmstadt). The information is available on CD-ROM. The cost varies from between DM 700 to DM 5000, depending on what is desired.

	Are records public?		Are records centralised?		Available electronically?		How are records indexed?			Data to obtain records <sup>8</sup>
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records		X		X		X		X		
wills		X		X		X				
patents	X		X			X		X		German Patent Office
trademarks	X		X			X		X		German Patent Office
copyrights										
commercial register	X			X	X		X	X		Local Court Genios, Internet
corporation charter	X			X	X		X	X		Local Court
land transfer records	X			X		X	X	X		Local Court Land Records Office
birth records	X			X		X				Residents' Registration Office
death records	X			X		X				
marriage records	X			X		X				
bank information		X		X		X				
credit information	X			X		X				commercial credit agencies for a fee
foreign tax returns		X		X		X				application to Federal Finance Office
alien registration lists	X		X			X				application to Federal Finance Office
shipping registry	X			X		X				application to Federal Finance Office
aircraft registry	X		X			X				application to Federal Finance Office Federal Office of Civil Aeronautics
company records										
company by-laws										
company financial statements	X			X		X				Local Court commercial register
taxpayer identification number		X		X		X				application to Federal Finance Office
certified copies of public records										
other public records:										
tradesmen	X			X		X	X			application to Chamber of Handicrafts
residents	X			X		X	X			Residents' Registration Office

<sup>8</sup> In case of doubt, foreign tax administrations may contact the Federal Finance Office, 53221 Bonn

## HUNGARY

### A. FORMS OF BUSINESS

Limited liability company (kft) - limited liability company is a business association incorporated with an initial capital (subscribed capital) consisting of capital contributions of a pre-determined amount, in the case of which the obligation of shareholders of the company extends only to the provision of their capital contributions, and the other possible contributions as set forth in the articles of association. With a few exceptions set forth in the Hungarian Company Code, shareholders shall not be liable for the obligations of the company.

Company limited by shares (rt) - a business association incorporated with a share capital (subscribed capital) consisting of shares of a pre-determined number and face value, in the case of which the obligation of shareholders to the company limited by shares extends to the provision of the face value or issue value of shares. With the exceptions defined in the Company Code, shareholders shall not bear liability for the obligations of the company.

Professional association - a co-operative business association and legal entity incorporated by members in order to facilitate the success and profitability of their business activities and to co-ordinate such activities, as well as to represent their professional interests. A professional association does not aim for profit, its members bear unlimited, joint and several liability for debts in excess of the association's assets.

Unlimited partnership (kkt) - by virtue of articles of association for the establishment of an unlimited partnership, the partners undertake to pursue joint business-like economic activities with unlimited, joint and several liability, and to make available to the partnership the contribution necessary for such activities.

Limited partnership (bt) - by virtue of articles of association for establishment of a limited partnership, the member of the partnership undertakes to pursue joint business-like economic activities in a way that the liability of at least one partner (general partner) for the obligations not covered by the assets of the partnership is unlimited, and is joint and several with all other general partners, while at least one other partner (limited partner) is only obliged to provide the contribution undertaken in the articles of association, and with the exceptions set forth in the Company Code, is not liable for the obligations of the partnership.

Joint enterprise - business association incorporated by partners who first and foremost are liable for their obligations with their assets. If the assets of the enterprise do not cover the debts, partners shall, in proportion to their contributions, bear joint liability for the debts of the enterprise as guarantors.

Co-operative - a community established in accordance with the principle of freedom of association and self-reliance, which, with the financial contributions and personal participation of the members, pursues entrepreneurial and other activities that serve the interests of its members within the framework of democratic self-government.

**B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

**1. *Income tax treaties that include exchange of information provisions:***

*Convention between the Republic of Hungary and:*

- the Ukraine
- the Republic of Moldova
- the Kazakh Republic
- the Republic of Poland
- the Czech Republic
- the Government of Canada
- the Government of Spain
- the Government of the Kingdom of Holland
- the Government of the Belgian Kingdom
- the Government of the Italian Republic
- Mongolia

for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital.

*Convention between the Republic of Hungary and:*

- the Government of the Eastern Republic of Uruguay
- the Russian Federation
- the Bulgarian Republic
- the Albanian Republic
- the Grand Duchy of Luxembourg
- the Socialist Federal Republic of Yugoslavia
- the Swiss Confederation
- the Government of the Republic of Greece
- the Government of the Republic of Cyprus
- the Government of the Kingdom of Sweden
- the Government of the Kingdom of Norway
- the Government of the Republic of Finland
- the Government of the Republic of France
- the Government of the Kingdom of Denmark
- the Republic of Croatia

for the avoidance of double taxation with respect to taxes on income and on capital.

*Convention between the Republic of Hungary and:*

- the Republic of Tunisia
- the South African Republic
- the Republic of Turkey
- the Islamic Republic of Pakistan
- Japan
- the United Kingdom of Great Britain and Northern Ireland
- the Government of the Indian Republic

for the avoidance of double taxation with respect to taxes on income.

*Convention between the Republic of Hungary and:*

- the State of Kuwait

for the avoidance of double taxation with respect to taxes on income and on capital and for the development of their economic relations.

*Convention between the Government of the Republic of Hungary and*

- the Government of the Republic of China

-Ireland

- the Socialist Republic of Vietnam

- the Government of the Arab Republic of Egypt

- the State of Israel

- the Government of Malaysia

- Australia

- the Government of the Korean Republic

- the Government of the Federal Republic of Brazil

- the Government of the Kingdom of Thailand

- the Government the United States of America

for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

*Convention between the Republic of Hungary and*

- Malta

for the avoidance of double taxation

*Convention between the Republic of Hungary and*

- the Federal Republic of Germany

- the Republic of Austria

for the avoidance of double taxation with respect to taxes on income, on returns and on capital.

Request for information regarding this topic should be applied to:

Dr. Annamaria Ivanics-Kokeny

Head of Department

Hungarian Ministry of Finance

Head Department of International Economic Relations

**2.3.4.** Hungary has not concluded any tax information exchange agreements/conventions or mutual legal assistance treaties that provide for exchange of information for tax purposes with other countries; neither is a party of any estate tax treaty including exchange of information provisions.

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

The Hungarian government is not a party of any of the listed multilateral conventions.

## **D. DOMESTIC LAWS**

### **1. *Central Alien Policy Register (Government Decree No 64/1994)***

This register is the central registry organ of the National Police Headquarters. It may give information on the name and address data indicated in the register or in the file to natural persons or legal entities other than the person concerned, if the applicant certifies by a document his right for the enforcement of which the knowledge of the data is necessary. Information requests shall be denied if the issuing of the data violates the interests of alien policing, law enforcement, national security furthermore, the rights of the person concerned or other persons.

Data supply of the personal data from the alien policy registration to abroad - including international organisations - may be performed only on the basis of an international agreement, provided the protection of the data is ensured in the same way.

### **2. *Bank and Credit Information (Act CXII of 1996 on Credit Institutions and Financial Enterprises)***

All facts, information, courses or data available for the financial institution on clients relating to the person, data, financial position, business activities, economic management, ownership and business relations as well as the balance and turnover of the client's account held with the financial institution as well as to his contracts entered into with the financial institution shall qualify as a bank secret.

Bank secrets may be disclosed to third parties or authorities in a limited number of cases and for specified purposes prescribed by the law.

The obligation to keep bank secrets shall not exist in respect of tax authorities, customs authorities and social insurance organs - upon written request of such organs to the financial institutions - acting in a procedure aimed at controlling of fulfilment of tax, customs and social insurance liabilities, as well as at executing an enforceable document verifying such debts. Furthermore, the obligation to keep bank and securities secrets shall not exist in the case when state tax authorities request information in writing from a financial institution for the fulfilment of written applications of foreign governmental authorities on the basis of an international treaty. These information are kept with the tax authorities may be exchanged under the double tax treaties.

Tax and customs authorities may acquire bank information for the purpose of :

Regarding foreign institutions, the following does not represent a breach of bank secrecy obligations:

- the transfer of data by a financial institution to a foreign financial institution if the client of such financial institution (subject party) has consented in writing and the foreign financial institution (data manager) is able to satisfy the conditions of data management required by Hungarian law regarding each data item and if the country where the registered office of the foreign financial institution is located has legal regulations on data protection which satisfy the requirements of the Hungarian legal regulations.

- Disclosure of data to the supervisory authority competent for the registered office of the foreign financial institution necessary for its supervisory activities, and data disclosure between the foreign supervisory authority and the Supervisory Commission as stipulated in the partnership agreement between the two authorities.

**3. *Company Register (Act CXLV of 1997 on the Registration of Companies)***

All valid or cancelled data contained by the Company Register and the company documents are public records and such records, including documents from juridical supervisory proceedings to the extent that the court has passed a measure may be reviewed by any person and notes on such may be taken. A registration application which has been submitted, but not processed yet, and its appendices are also public records, whereby the company registration records shall indicate that processing of such application (or the registration of amendments) is in progress.

**4. *Accounting data of companies (Act XVIII of 1991 on Accounting)***

An entrepreneur keeping double-entry books and registered in the company register shall deposit with the Company Register the annual report or simplified manual report approved by the body entitled thereto by 31 May of the year following the subject year.

An entrepreneur keeping single-entry books and registered with the Company register shall deposit its simplified balance sheet with the COMPANY Register by 31 May of the year following the subject year.

The data contained in the annual reports deposited with the Company Register are open to the public, any person may receive information thereon and may make copies thereof at the Company Register.

All entrepreneurs keeping double-entry books shall publish their annual report, with the exception of the business report, or their simplified annual report by forwarding an original or a certified copy of the annual report to the Company Registration and Information Service of the Ministry of Justice.

**5. *Regiser of personal data (Act LXVI of 1992)***

The register is kept by a central office under the supervision of the Ministry of Home Affairs. Regular requests from abroad for single or collective data may be provided only with the permission of the Minister of Home Affairs.

**6. *Court Records***

*In civil cases:*

According to Section 119 of the Code of Civil Procedure, the parties, the public prosecutor and other persons taking part in the lawsuit, as well as their representatives, may inspect the files on the case, with the exception of draft decisions and eventual dissenting opinions, in any phase of the lawsuit without a permit for this purpose and may make copies of these documents for their use. The record of a hearing, from which the public was excluded in order to keep a state secret, an official or an industrial secret, may not be copied, nor is it permitted to make abstracts of it. In

such a case, the inspection of the documents shall be permissible only under conditions laid down by the presiding judge.

*In criminal cases;*

The criminal procedures do not specifically address this question; however, based on the context of the regulations it is clear that only the parties involved may have access to the record.

The records are not centralised, they can be found in the archives of the different courts. The records are indexed according to the date of entering into record (the date of institution of the proceedings) and according to the name of the defendant or the accused.

## **7. Wills**

A testamentary disposition may be executed, as a will under notary's seal (public will) or as a written private will. Nuncupative will is only admissible in cases specifically determined by law.

Before opening of the inheritance (death of the testator) only the wills under notary's seal are kept in the Archives of the Notaries. There is no regulation for the safekeeping of private wills. Private wills are filed with the notaries only after the death of the testator and for the purpose of initiating the probate procedure.

Neither wills under notary's seal nor private wills filed after the death of the deceased are open to the public. They are available only to the parties involved or to their representatives. The will or probate files are indexed according to the name of the deceased and the date of death. The files are kept in the offices of the notaries.

## **8. Patents and Trademarks**

The registers of patents and trademarks are kept by the Patent Office, the records are available to the public. The records are indexed according to titles indicating the subject to which the invention relates and according to the name of the trademark.

## **9. Land Transfer Records**

Land transfer records are kept by the land registry offices. The records as well as the archives, where the contracts and enclosures are to be found, are open and available to the public. Real estate transactions are recorded according to location (community, district, town) and lot number.

## **10. Birth, Marriage and Death Records**

They are kept by the Registry offices of the district and local governments. The records are not public, only extracts containing the names and particulars of the parties involved as well as the date and place of the event. These records may be issued and delivered by the competent registrar exclusively to another registry office, to the superior registration authority or to the public guardianship authority for the purpose of performing their duties determined by law. Otherwise, permission of the authority is required. The records are indexed according to date of event and name of the persons concerned.

**11. Foreign tax records**

The question is regulated by bilateral international agreements for the avoidance of double taxation.

**E. COMMERCIAL SOURCES OF INFORMATION<sub>μ</sub>**

Information on the companies may be obtained through the Chamber of Trade and Commerce or different non-governmental companies specialised on data collecting and servicing activity.

**F. OTHER SOURCES OF INFORMATION**

Other public records

Register of residences: everyone who stays in Hungary should be registered with the local government or the police. In order to locate someone's residence or to get knowledge of his earlier whereabouts, the central Record Office of the Ministry of Home Affairs can be contacted. This office gives information if the particulars of the searched person are available.

The register of vehicles gives information on the data of the owners of cars in case the licence plate number is provided.

Certified copies of public records

Records may be certified through authentication of original copies by the supervisory authority of the office issuing the original document. For use abroad the authentication is to be superlegalised by the Ministry of Foreign affairs and has to be certified by the embassy of the country where the document is to be applied.

The state notaries have the right to prove under seal that the copy of a document is identical with the original.

	Are records public?		Are records centralised?		Available electronically ?		How are records indexed?			Data required
	Yes	No	Yes	No	Yes	No	Name	Location	Date	to obtain records <sup>9</sup>
court records		X		X		X	X	X	X	Date of entering into record, name of defendant/accused
wills		X		X		X	X	X	X	Available through
patents	X		X		X		X			Indexed according to title
trademarks	X		X		X		X			Indexed according to name
copyrights		X	X			X	X			
commercial register	X			X		X	X			Name of enterprise
corporation charter	X		X			X	X			Company registration number
land transfer records	X			X	X			X		Location/lot number of the real estate
birth records		X		X		X	X	X	X	Date
death records		X		X		X	X	X	X	
marriage records		X		X		X	X	X	X	
bank information		X		X						
credit information		X		X						
foreign tax returns		X		X	X		X			Name/tax registration number
alien registration lists		X	X			X	X	X		
shipping registry	X			X		X	X	X	X	Registration number of the ship
aircraft registry	X		X			X	X	X	X	Registry code
company records	X			X	X		X			Name/registration number of the company
company by-laws	X			X		X	X			Name/registration number of the company
company financial statements	X			X		X	X		X	Name/registration number of the company
taxpayer identification number		X		X	X		X	X		Personal identification data
certified copies of public records	X			X		X				
other public records:		X								

<sup>9</sup> In case of doubt, foreign tax administrations may contact the Federal Finance Office, 53221 Bonn

## **IRELAND**

### **A. FORMS OF BUSINESS**

In general business is conducted in Ireland by means either of a sole trade, partnership or through a body corporate.

### **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIET EXCHANGE OF INFORMATION FOR TAX PURPOSES**

#### **1. *Income Tax Treaties***

International Section, Office of the Revenue Commissioners, Dublin Castle

#### **2. *Estate Tax Treaties***

Capital Taxes Branch, Office of the Revenue Commissioners, Dublin Castle

#### **3. *Tax Information Assistance Treaties***

Not applicable.

#### **4. *Mutual Legal Assistance Treaties***

Not applicable.

### **C. MULTILATERAL CONVENTION**

Not applicable.

### **D. DOMESTIC LAWS**

In relation to a case or tribunal pending in a foreign jurisdiction, access to information which would include the taking of evidence, is governed by the Foreign Tribunals Evidence Act 1856 and Order 39 rules 39-44 of the Rules of the Superior Courts 1986. The procedure involves a letter of request being sent from the requesting State to the Department of Foreign Affairs who pass it to the Chief State Solicitor's Office. This office, in turn, then makes an application to the Master of the High Court who will then make an order enabling the evidence to be taken by the District Court.

It is also possible to obtain an order of discovery in Ireland relating to foreign proceedings under Section II of the Jurisdiction of Courts and Enforcement of Judgements (European Communities) Act 1988.

### **E. COMMERCIAL SOURCES OF INFORMATION**

There are a number of private companies specialising in providing information and profiles on sectors, companies and individuals.

**OTHER SOURCES OF INFORMATION**

Public Libraries, Trade Journals, Chambers of Commerce etc.

	Are records public?		Are records centralised?		Available electronically ?		How are records indexed?			Data required to obtain records <sup>10</sup>
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records		X		X		X			X	Parties involved & date
wills	X		X			X	X		X	Name & date of death
patents	X		X			X	X		X	Date, description & holder
trademarks	X		X			X	X		X	Date, description & holder
copyrights	X		X			X	X		X	Date, description & holder
commercial register	X			X		X	X	X		Business description & location
corporation charter										Not applicable
land transfer records	X			X	X		X	X		Name, Folio & Location
birth records	X		X		X		X	X	X	Name, date and place of:
death records	X		X			X	X	X	X	Birth, death, marriage
marriage records	X		X			X	X	X	X	
bank information		X		X	X					Available to account holder or by court order
credit information		X	X		X					Available to account holder and credit agencies
foreign tax returns		X	X			X				International section, spontaneous exchange & mutual assistance
alien registration lists		X	X			X				Only available to individuals
shipping registry	X		X			X		X	X	Vessel number year & place of registration
aircraft registry	X		X		X		X	X		Type of aircraft and airfield
company records	X		X		X		X		X	Name, number and registered office
company by-laws	X		X		X		X		X	Company name & number
company financial statements	X		X		X		X	X	X	Company name, registered office & accounts date
taxpayer identification number		X	X		X		X		X	Name, address and date of birth
certified copies of public records										Category too broad, legal documents, Department for
other public records:										State Documents and Parliamentary records

<sup>10</sup> In case of doubt, foreign tax administrations may contact the Federal Finance Office, 53221 Bonn

## ITALY

### A. FORMS OF BUSINESS

In our legal system the typical forms of doing business are the following: *società semplice* (non-commercial partnership), *società in nome collettivo* (general partnership), *società in accomandita semplice* (limited partnership), *società a responsabilità limitata* (limited company), *società per azioni* (joint-stock company), *società in accomandita per azioni* (limited partnership with share capital).

The first three forms are defined as *società di persone* (partnerships), the other three as *società di capitali* (corporations). Opting for one of these forms depends on various conditions. The law sets a general binding limitation to the free option of parties: they cannot perform a commercial activity by resorting to the form of *società semplice*, which form is reserved for performing non-commercial activities (for example agricultural activities). It is however possible to opt for forms other than *società semplice* even when performing non-commercial activities. Some particular commercial activity, such as banking and insurance, can be exclusively carried on as *società di capitali*. In concrete, opting for one of the indicated forms largely depends on parties' economic capacity: when it is not high, *società di persone* is generally opted for; when parties' capital is of a certain size, the option falls on *società di capitali*.

Excluding the form of limited partnership with share capital, *società di capitali* give shareholders the advantage of limited liability: only corporate property is liable for company's debts.

Other legal forms of doing business are: *associazione in partecipazione* (association in participation) and *consorzio* (consortium).

The *associazione in partecipazione* is a contract under which a party - the incorporating one- transfers to another party -the associated- a participation in the profits of an enterprise or of one or more businesses against consideration of a contribution consisting in a supply of personal services or of any goods that can be subject to an economic appraisal. Managing enterprise or businesses is up to the incorporating party, the sole responsible to third parties.

The *consorzio* among enterprises is a contract by means of which various enterprises form a common organisation to govern or to carry on certain phases of their own enterprises. The memorandum of association can provide for an office designed to deal with third parties. This is the case of a *consorzio* performing outside activities by taking a legal form that is similar to the company's: as a matter of fact, the contract of *consortium* should be registered in the trade register.

In the Italian legal system there also exist various institutions being similar to the joint venture form. More than the different kinds of companies, the *associazione in partecipazione* (association in participation) and *consorzio* (consortium), it is to point out temporary pools of enterprises to participate in tenders for contracts and to execute public works, participation of many licensees in the research and exploitation of hydrocarbons and contracts of film coproduction.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

### **1. *Income tax treaties that include exchange of information provisions:***

All the Double Taxation Conventions on Income and/or on Capital signed by Italy include a provision for the exchange of information between administrations.

A list of conventions currently in force are as follows: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, China, Cyprus, Czechoslovakia, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Ivory Coast, Japan, Kazakhstan, Luxembourg, Malaysia, Malta, Morocco, Mauritius, Mexico, Norway, New Zealand, the Netherlands, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Singapore, Spain, Sri Lanka, South Africa, South Korea, Soviet Union, Sweden, Switzerland, United Arab Emirates, United Kingdom, United States of America, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Venezuela, Vietnam, Yugoslavia, Zambia.

As to competent authorities in exchange of information field, we refer to the proper list the Working Party no. 8 periodically update (DAFFE/CFA/WP8/WD(97)10/REV6).

### **2. *Estate tax treaties that include exchange of information provisions:***

All the tax conventions concerning inheritance taxes signed by Italy include a provision for the exchange of information between administrations.

Here follows a list of conventions currently in force: France, Germany, Greece, Sweden, United Kingdom, United States.

### **3. *Tax information exchange agreements or conventions***

Italy concluded various working agreements concerning spontaneous exchange of information with the following countries: Australia, Austria, Belgium, Denmark, Finland, France, Germany, Hungary, Norway, Poland, Slovak Republic, Spain, Sweden, Trinidad and Tobago, Tunisia and United States.

Working agreements with Belgium and Sweden regulate automatic exchange of information as well.

The same countries, excluding Australia, Spain, Trinidad and Tobago, Tunisia, are parties to agreements on simultaneous verifications, too.

There exists a further agreement with the United States to implement simultaneous verification programmes for assessing tax violations connected to offences of criminal nature.

## **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

From 11.2.1978 the Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents, signed on 5 October 1961 in Hague, is in force in Italy, which ratified it on 13 December 1977. The Convention simplifies legalisation of documents formed in Italy to be used in other countries that are parties to the Convention. Competent authorities are :

- as to civil status certifications and notary deeds: Attorney General of the court in which jurisdiction those deeds were issued;

- as to other administrative deeds: the prefects according to their territorial jurisdiction.

From 12 June 1962 the European Convention on Legal Assistance in Criminal Matters is in force in Italy, which ratified it by Law no.215 of 23 February 1961.

The competent authority is the Ministry of Justice.

#### **D. DOMESTIC LAWS**

In our domestic tax legislation there exist no specific provisions that permit access to information by a foreign jurisdiction or foreign person.

However, it is to remind the provision of article 31, paragraph 3 of Presidential Decree no. 600/1973 concerning income tax assessment that states as follows: “ The tax administration shall exchange information necessary to correctly assess taxes on income and on capital with the other competent authorities of the European Community Member states. For this purpose, it can authorise the presence of officers belonging to Member states’ tax administrations in the territory of the State”.

As to VAT, similar provision is included in article 65, paragraph 1 of Presidential Decree no. 633/1972.

Such provisions refer to the content of article 6 of EEC Directive 77/799.

#### **F. COMMERCIAL SOURCES OF INFORMATION**

Our civil law provides for a trade register whose implementation has never occurred. In such register there should have been entered commercial entrepreneurs, commercial enterprises and public bodies performing commercial activities, in order to allow third parties to get informed on some essential business data, such as purpose, seat, powers of its proxies and agents, etc.

Instead of this register, a similar publicity is achieved by entering in the registers of the court’s chanceries only facts connected to commercial enterprises, appointment of proxies and agents, legal measures relevant to the carrying on of an enterprise by minors or persons under disability.

Corporations publish their most important facts and deeds by registering them in the *BUSARL*- “Official Bulletin of joint-stock and limited companies”.

Not to confuse with trade register are registers of firms and craftsmen at the chambers of commerce. These registers have the mere function of informing, but they do not generate the effects endemic to the publicity carried out by entering in the registers of the court’s chanceries. As a matter of fact, such publicity implies that as of the registration has occurred the ignorance of the facts to be registered by law cannot be invoked by third parties as of the registration has occurred and that when the facts to be registered by law are not registered, they are supposed not to be known by third parties unless one has proof to the contrary.

	Are Records Public?		Are Records Centralized ?		Available electronically?		How are Records Indexed?			Data Required	Location of Records (Name of Office)
	Yes	No	Yes	No	Yes	No	Name	Location	Date	to Obtain Records	
Court Records	X			X		X	X	X	X	Date, Name and court interested	Court (Tribunale) in city where hearing was held
Wills	X			X							Registry of magistrate's Court(Cancelleria della Pretura) in which jurisdiction succession was started
Patents	X		<sup>(1)</sup> X			<sup>(2)</sup> X	X		X	Name and date	Ministry of Industry
Trademarks	X		<sup>(1)</sup> X			<sup>(3)</sup> X	X		X	Name and date	Ministry of Industry
Copyrights	X		X			X	X		X		Presidenza del Consiglio
Commercial Register	X			X	X		X			Name of Company and possibly number of registration	Clerk of the Court's office (Cancelleria presso il Tribunale) where company is located
Corporation Charter	X			X			X	X		Name Location and type of company	" "
Land Transfer Records	X			X			X			Complete data on individual	Land Registry in wich district property is kept
Birth Records	X			X	X		X		X	Name, date and place of birth, both patents name	Anagrafe del Comune
Death Records	X			X	X		X		X	" "	" "
Marriage Records	X			X	X		X		X	" "	" "
Bank Information		X		X			X	X	X	Data on individuals or on Companies number of corrent account	At bank where account is held
Credit Information		X		X			X	X	X		Where bank is located
Foreign Tax Return		X	X		X		X	X	X	Data on individuals or on companies, T.I.N.	Ministry of Finance, Rome and each district office
Alien Registration Lists		X		X	X		X			Name and address	Local Police where individual resides
Shipping Registry	X			X		X					Harbour Master's Office
Aircraft Registry	X										
Company Records	X			X	X		X		X	Name of company and location	Court (Tribunale) where company is located
Company By-Laws	X			X	X		X		X	Full name of company and	" "

										<b>location</b>	
<b>Company Financial Statements</b>	X			X	X		X		X	" "	" "
<b>Taxpayer Identification Number</b>		<sup>(4)</sup> X	X		X		X	X	X	<b>Name, sex, birth's date and birth's place of taxpayer,</b>	<b>Anagrafe Tributaria</b>
<b>Certified Copies of Public Records</b>	X			X							<b>Office where records are located</b>
<b>Other Public Records</b>											

- (1) The records are centralised but some data base can be found in local offices
- (2) Data improving existing devices are available electronically since 1991; data concerning inventions are available electronically since 1985.
- (3) Only data concerning trademarks of 1994 and 1995 are available electronically;
- (4) The person who wants to know its own T.I.N. needs to ask for it to the tax office. Data in Anagrafe Tributaria cannot be looked up directly by people. Anyway, the first fifteen characters can be easily found out by everybody just using personal data: name, sex, birth's date and birth's place. The last character, i.e. the 16<sup>th</sup> one, is a control character, that can be found out using an algorithm established by the law introducing the T.I.N.. This algorithm can be calculated by a special computer program.

## JAPAN

### A. FORMS OF BUSINESS

- Sole Proprietorship
  - Company Organisation
8. **[Gomei-Gaisha]**: an unlimited partnership that is organized under the Commercial Code. Members have unlimited liability for the debts of the entity.
  9. **[Goshi-Gaisha]**: a partnership that is organised under the Commercial Code. There must be at least one member with unlimited liability and one member with limited liability. A limited liability member may not participate in the management.
  10. **[Yugen-Gaisha]**: a corporation or a limited (-liability) company that is commonly used by small businesses and organized under the Limited Liability Company Law. All members have limited liability.
  11. **[Kabushiki-Gaisha]**: a joint-stock corporation (Inc.) or a joint-stock company (Co., Ltd.) that is organised under the Commercial Code. All shareholders have limited liability.

### B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES

#### *Income tax treaties that include exchange of information provisions:*

We have concluded income tax treaties with 44 countries that have permitted exchange of information for tax purposes. These treaties have been applied to 54 countries.

Ireland, United States of America, Israel, Italy, India, Indonesia, United Kingdom, Viet Nam, Arab Republic of Egypt, Australia, Austria, Netherlands, Canada, Republic of Korea, Zambia, Singapore, Sweden, Spain, Sri Lanka, Thailand, China, Czecho-slovakia\*, Denmark, Federal Republic of Germany, Turkey, New Zealand, Norway, Pakistan, Hungary, Bangladesh, Fiji, Philippines, Finland, Brazil, France, Bulgaria, Belgium, Poland, Malaysia, South Africa, Mexico, Rumania, Luxembourg, U.S.S.R.\*\*

We have concluded income tax treaty with Switzerland, but there is no article of providing for exchange of information for tax purposes in it.

\* Applicable to Czech and Slovak now.

\*\* Applicable to Russia, Kyrgys, Georgia, Tadzhikistan, Uzbekistan, Turkmenistan, Ukraine, Armenia, Belarus and Moldova.

The office to contact in order to make a request for information is the Office of International Operations of National Tax Administration of Japan.

#### *Estate tax treaties that include exchange of information provisions:*

We have concluded estates, inheritances and gift tax treaty only with the U.S., which contains an article providing for exchange of information for tax purposes.

And the office to contact in order to make a request for information is the Office of International Operations of National Tax Administration of Japan.

***Tax information exchange agreements or conventions:***

We have not concluded any tax information exchange agreements or conventions.

***Mutual legal assistance treaties that provide for exchange of information for tax purposes:***

We have not concluded any mutual legal assistance treaties that provide for exchange of information for tax purpose.

**C. MUTUAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

We have not entered into any multilateral conventions that permit exchange of information for tax purposes such as the Council of Europe/ OECD Convention on Mutual Assistance in Tax Matters.

**D. DOMESTIC LAWS**

Most requests for information by a foreign jurisdiction or foreign person appear to be for administrative documents of Japanese administrative organs. So when we receive requests to disclose such documents by a foreign jurisdiction or foreign person, we have to deal with them in accordance with the Law Concerning Access to Information Held by Administrative Organs. □ This law contains articles regarding the right to request disclosure and inquiries to the review board.

**E. COMMERCIAL SOURCES OF INFORMATION**

***Main commercial sources of information***

We can list the following companies as commercial sources of information:

Dan & Bradstreet, Moody's International Company, Bloomberg, JADE

These companies provide information on corporations such as history of companies, items of registrations, details of business, financial affairs, etc.

**F. OTHER SOURCES OF INFORMATION**

None in particular.

\*1 Computer searches for patents and trademarks can be done on the Web site of the Japanese Patent Office. (Address: <http://www.jpo-miti.go.jp/ipdl/ipdl a.htm>)

\*2 Registration of copyrights is optional in Japan. So not all copyrights are registered. Please see the Web site of the Agency for Cultural Affairs. ( Address: <http://www.bunka.go.jp/8/4/VIII-4.html>)

\*3 Regarding information on commercial registers and land transfer records, please see the Web site of the Ministry of Justice. ( Address: <http://www.moj.go.jp/MINJI/minji16-1.htm>)

- \*4 With regard to birth, death and marriage records, it is possible to obtain transcripts or abridged transcripts at city, town and village offices where these notifications were made.
- \*5 With regard to shipping registries, it is possible to obtain transcripts or abridged transcripts or to read them at a Regional Transport Bureau.
- \*6 With regard to aircraft registries, it is possible to obtain transcripts or abridged transcripts at the Co-ordination Division of the Aviation Bureau, Ministry of Transport.
- \*7 Information on the financial statements of companies whose stock is listed on stock exchange markets or whose stock is traded on the over-the-counter market is available at the Kanto Local Finance Bureau. ( Address: <http://www.mof-kantou.go.jp/rizai/kigyouzaimu/gaiyou.htm>)

With regard to the bank information, credit information, and company records, it is impossible to answer these questions because we didn't understand the concrete intention of them. Further explanation would be appreciated.

	Are records public?		Are records centralised?		Available electronically		How are record indexed?			Date Required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
Court Records		X		X		X	Unknown			
Wills		X		X		X	Unknown			
Patents *1	X		X		X		Please see attachment			
Trademarks *1	X		X		X		Please see attachment			
Copyrights *2	X		X			X	Please see attachment			
Commercial Register *3	X			X		X	X	X		
Corporation Charter	No corporation charter system									
Land Transfer Records*3	X			X		X		X		
Birth Record *4	X			X		X	X	X		
Death Records *4	X			X		X	X	X		
Marriage Records *4	X			X		X	X	X		
Bank Information										
Credit Information										
Foreign Tax Returns		X		X		X	X	X		
Alien Registration Lists		X		X		X	Unknown			
Shipping Registry *5	X			X		X	X	X		Name, number and registered port of ship
Aircraft Registry *6	X		X			X	By a registry No.			Registration No
Company Records										
Company By-Laws *7	X			X		X	X			
Company Financial Statements *7	X		X			X	X		X	
Taxpayer identification No	No taxpayer identification number									
Certified copies of public records										
Other public records										

## **LUXEMBOURG**

### **A. FORMS OF BUSINES**

#### ***Société Anonyme (SA)***

A corporation of at least two shareholders. Share capital must be at least LUF 1 250 000 which can be in a foreign denomination. Capital must be fully subscribed and each share must be paid up to the extent of at least 25 percent. A SA is generally the form of a Luxembourg subsidiary of a foreign corporation

#### ***Société à responsabilité limitée (SARL)***

A limited liability corporation where the shares are not negotiable. There must be at least one but not more than 40 shareholders. The minimum share capital is LUF 500 000 divided into shares of equal value of LUF 1 000 or multiples thereof.

#### ***Société en nom collectif***

A general partnership formed by private or notarial deed. A minimum of one half of the partners representing three quarters of the capital may decide to put the partnership into liquidation. The partner is taxed on his share of the profits whether distributed or not.

#### ***Société en commandite simple***

A limited partnership where active partners (commandités) have joint and unlimited responsibility while the limited partners (commanditaires) are liable only to the extent of their participation.

#### ***Société en commandite par actions***

A corporation-limited partnership (mixed character). The corporation is subject to the corporation tax. The active partners have joint and unlimited responsibility while the limited partners are liable only to the extent of their participation. The partners with unlimited liability are personally liable only in respect of remuneration and distribution received from the partnership.

#### ***Société civile***

A general partnership where each partner is taxed on his share of the profits, whether distributed or not. The partnership is subject to civil law; it is used primarily for property and professional companies.

### *Holding Companies*

1929 Holding Companies are not subject to a direct Luxembourg tax. The list of securities of holding companies is not published and distributed dividends are not taxed to the company or shareholders. They must be organised as a corporation. Most 1929 Holding Companies are incorporated as public limited companies; however, they are not permitted to carry out any commercial activity in Luxembourg. The provisions of the tax treaty do not apply to the income of any 1929 Holding Company (which is entitled to special tax benefit under Luxembourg law) or to any income derived from such companies by a shareholder.

### *Sole Proprietorship*

This is an unincorporated entity owned by one person who receives all profits and personally incurs all liabilities.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

### Designated competent authorities for the purposes for exchange of information:

Mr. Norbert HILTMAN  
Director of the Direct Tax Administration  
Tel: 40 800-1

Mr. Guy HEINTZ  
Head of the Division of International Relations of the Direct Tax Administration Tel: 40 800-2204  
Email: guy.heintz@co.etat.lu

### Members of the Division of International Relations:

Mr. Paul ROLLER  
Tel: 400 800-2206  
Email: paul.roller@co.etat.lu

Mr. Michel HOFFMANN  
Tel: 40 800-2205  
Email: michel.hoffmann@co.etat.lu

Address:

45 boulevard Roosevelt  
L 2982 Luxembourg  
Fax: 47 33 29

**Income and Capital Tax Treaties that include Exchange of Information provisions**

	<b>DATE OF SIGNATURE</b>
Germany	23 August 1958
Austria	18 October 1962
Belgium	17 September 1970
Brazil	8 November 1978
Bulgaria	27 January 1992
Canada	17 January 1989
China	12 March 1994
Korea	7 November 1984
Denmark	17 November 1980
Spain	3 June 1986
United States	18 December 1962
Finland	1 March 1982
France	1 April 1958
United Kingdom	24 May 1967
Greece	22 November 1991
Hungary	15 January 1990
Indonesia	14 January 1993
Ireland	14 January 1972
Italy	3 June 1981
Japan	5 March 1992
Malta	29 April 1994
Morocco	19 December 1980
Mauritius	15 February 1995
Norway	6 May 1983
Netherlands	8 May 1968
Poland	14 June 1995
Romania	14 December 1993
Russian Federation	28 June 1993
Singapore	6 March 1993
Slovak Republic	18 March 1991
Sweden	14 October 1996
Switzerland	21 January 1993
Czech Republic	18 March 1991
Thailand	7 May 1996
Vietnam	4 March 1996

***Tax information exchange agreements or conventions:***

European Directive 77/799 of 19 December 1977.

***Mutual legal assistance treaties that provide for exchange of information for tax purposes:***

Additional Protocol on tax matters to the European Convention on Mutual Assistance in criminal matters.

**E. COMMERCIAL SOURCES OF INFORMATION**

**1. *Permission to Operate***

In order to operate in Luxembourg, commercial and industrial firms need the permission of the Ministry of the Economy or of the Ministry of Middle Classes, whereas banks and insurance companies need the permission of the Ministry of Finance. The permit is issued by the Ministre des Classes moyennes on the recommendations of two separate committees.

**2. *Entry in Trade Register***

Every natural or legal person and every branch engaged in commercial or industrial activity is required to apply within one month for entry in the trade register kept in Luxembourg and Diekirch district courts. Entry in the registry is subject to a fee which varies according to the capital of the enterprise.

**3. *Corporations***

A newly formed corporation must prepare the Acte de Constitution (articles of incorporation) with a notary and have it registered and deposited with the Greffe du Tribunal de Commerce. It must include certain information such as the identity of the persons who have signed it, the form of the corporation and name, registered office, objects of the corporation, amount of subscribed capital, details of different classes of stock, details of non-cash contributions, whether shares are bearer or registered, special considerations for shareholders/voting rights, life of the corporation and estimate of cost of incorporation.

**4. *Foreign Corporation Branch***

A branch of a foreign corporation may be established by depositing the statutes with the Court of Commerce and by publishing them in the official Gazette. Also, a statement by the board of directors authorising the branch establishment and appointment of a manager/official representative should be deposited and published.

**5. *Other Registration***

To ensure that they meet their tax obligations, businesses are required to register with the Administration des Contributions Directes and with the Administration de l'Enregistrement et des Domaines.

For social security persons are required to register in the Centre Commun de la Sécurité Sociale.

## **F. OTHER SOURCES OF INFORMATION**

### **1. *Land Transfer Records***

Records of land transfers are maintained in each city hall. The public may obtain the name of the owner and the exact measurements of the plot by applying for such information at the city hall.

### **2. *Birth, Death and Marriage Records***

Records of births, deaths and marriages may be obtained from the city hall where the event occurred.

### **3. *Company Records, Financial Statements, Etc.***

Certain records may be available to the public if published in the Memorial, otherwise, the information should be requested from the company or through competent authority procedures.

### **4. *Court Records***

Court records are not available to the public; however, a party to the case may obtain an extract regarding the case from the Palais de Justice.

### **5. *Wills***

Wills are not public records, they are kept by the notary for the testator.

### **6. *Alien Registration Lists***

This list is not available to the public. Information should be requested through competent authority channels.

### **7. *Patents***

Patents are issued to the first party that files a declaration relating to a new invention that can be used for an industrial operation. Patents are issued for a maximum period of 20 years. The applicant must elect domicile in Luxembourg or they must choose a proxy with a Luxembourg domicile. The deposit of declaration is only accepted if receipt for the first annual tax is produced. The patent will be published in the official gazette, Memorial.

## **8. Trademarks**

Belgium, Luxembourg and The Netherlands have legislated one uniform law which governs the registration and protection of trademarks. They are referred to as "product marks" or "marque de produits". The request for registration of a mark can only be filed by a party that actually participates in the trade to which the mark refers or in setting up an organisation for such trade. The right to a mark belongs to the first applicant. It is obtained by making the deposit with the common office in The Hague or with the national administration in one of the three countries. It may also be obtained by registration with the International Office for the Protection of Industrial Property. The registration is valid for a period of ten years but can be renewed for subsequent periods of ten years. Extracts are available at the *Dépot et Publication des Actes et Documents concernant les Sociétés Commerciales* located in the Palais de Justice in Luxembourg.

## **9. Tax Returns**

Tax return information may be requested through competent authority procedures.

## **10. Corporate Tax**

Companies must file their returns for all taxes by May 31 of each year following the calendar year during which the income was earned. An audit report and minutes of the general assembly are to be filed with the return. Assessments are issued after the end of the tax year and can normally be finalised within five years. The corporate tax rate is 30% with a 4% surcharge. Tax audits are at the discretion of the tax authorities and may range from a discussion with company officials to a full and detailed investigation.

## **11. Individual Tax**

In the case of employees, the employer must complete a declaration of tax deducted annually for the calendar year for submission to the tax office before March 1 of the following year. For an employee with one employment who earns less than LUF 1 800 000 and has no other income, no further return is required. In all other cases, a return should be completed by the taxpayer and submitted by March 31. Assessments are issued after the end of the tax year and can normally be finalised in five years. Tax rates are progressive to 46% plus a surcharge of 2,5%. The tax rate for non-residents cannot be less than 15% plus the contribution to the unemployment funds. Tax audits are at the discretion of the tax authorities.

	Are records public?		Are records centralised?		Available electronically?		How are records indexed?			Data Required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records		X	X				X			Name
wills		X		X		X	X			Name
patents	X		X				X			Name
trademarks	X		X				X			Name
copyrights	X		X				X			Name
commercial register	X		X				X			Name & address
corporation charter	X		X				X	X		Name & address
land transfer records	X			X				X		Location
birth records	X			X			X			Name & Location
death records	X			X			X			
marriage records		X		X						
bank information		X		X						Not available
credit information		X		X			X			Competent authority request
foreign tax returns		X		X		X	X			Competent authority request
alien registration lists		X	X				X			Competent authority request
shipping registry	X		X				X			Name
aircraft registry										
company records	X		X				X			Name & Address
company by-laws	X		X				X	X		Name & Address
company financial statements	X		X				X	X		Name & Address
taxpayer identification number		X	X		X		X		X	Name & Date of birth
certified copies of public records										
other public records:	X			X		X				

## **THE NETHERLANDS**

### **A. FORMS OF BUSINESS**

#### **BESLOTEN VENNOOTSCHAP MET BEPERKTE AANSPRAKELIJKHEID OR BV**

This is a private limited company. A Company can be set up by one or more individuals or companies. The articles of incorporation must be drawn up by a notary public and signed by the founders. The articles set out the aims, objects and internal regulations of the proposed company. The notary public must submit a draft copy to the Ministry of Justice to obtain a “declaration of no objection” (verklaring van geen bezwaar). The registered address (legal seat) of the company must be in the Netherlands. This minimum fully paid-in capital for a new B.V. is Dfl 40,000.

#### **NAAMLÖZE VENNOOTSCHAP OR N.V.**

This is a public limited company. The description of N.V. is similar to that of B.V. The minimum paid-in capital for a new N.V. is Dfl 100,000. Every N.V. company must have a managing director or a management board. Management and supervisory board members acting within their duties are not personally liable for their activities. Public limited companies are obliged to publish their annual accounts: balances and profit-and-loss accounts.

#### **VENNOOTSCHAP ONDER FIRMA OR VOF**

This is a general partnership. The partners in a general partnership are jointly and individually liable for its liabilities. VOF can be formed by at least two partners, individuals, or legal entities.

#### **COMMANDITAIRE VENNOOTSCHAP OR C.V.**

This is a limited partnership. The limited or silent partner is liable only to the amount of his/her paid-in capital. He does not participate in the management of the partnership. The incorporation-arrangement must include partnership agreement and the partnership must be registered with the Trade Register.

#### **BUKANTOOR OR FILIAAL (BRANCH/REPRESENTATIVE BRANCH)**

A branch-representative office is not a legal entity and the parent company remains liable for its liabilities. These must also be registered at the Trade Register. Partnerships and branches generally do not have to publish financial statements.

#### **EENMANSZAAK**

This is a sole proprietorship. The proprietor is fully liable for activities taken in the course of his/her business. They must also register at the Commercial Trade Register. No annual account is required to be published.

### **B. BILATERAL TREATIES WITH PROVISIONS FOR EXCHANGE OF INFORMATION**

The Netherlands have agreed to tax-treaties with the following countries.

***Income tax:***

Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Denmark, Federal Republic of Germany, Estonia, Philippines, Finland, France, Japan, Yugoslavia, Kazakhstan, Korea, Lithuania, Luxembourg, Macedonia, Malaysia, Morocco, Mexico, Netherlands-Antilles, New Zealand, Nigeria, Norway, Ukrainian, Pakistan, Poland, Rumania, Russia, Singapore, Spain, Sri Lanka, South Africa, Sweden, Surinam, Thailand, Tschechia/Slovakia, Tunisia, Turkey, United States, Venezuela, Vietnam, Zambia.

***Estate Tax Treaties:***

Finland, Israel, Netherlands-Antilles, Sweden, Switzerland, United Kingdom, United States.

***Specific tax-information exchange agreements:***

Belgium, Canada (only direct assistance), Denmark (on automatic exchange of information, and direct assistance of tax-officials), France, Germany.

***Mutual legal assistance treaties including tax-related crimes for direct and indirect taxes:***

Bulgaria, Denmark, Germany, Finland, France, Greece, Hungary, Ireland, Italy, Norway, Ukrainian, Austria, Poland, Portugal, Spain, Tchechia, Turkey, United Kingdom, Iceland, Sweden (within the European Treaty for Legal Assistance). Australia, Canada, United States, (specific bilateral treaties).

***For indirect taxes:***

Belgium, Luxembourg (within the “Schengen Convention”).

The Dutch competent authority is:

B.J. van der Zee, Director for Tax and Legal Affairs  
Ministry of Finance  
PO Box 20201  
2500 EE The Hague

However, requests for information and spontaneous exchange of information should be sent to:

Belastingdienst FIOD/International  
Postbus 1603  
2003 BR Haarlem  
Netherlands

***Important:***

Field personnel from other countries cannot directly contact the Dutch competent authority. A request for information or a spontaneous exchange of information can only be presented through their own competent authorities, according to article 26 of the OECD Model Convention which says: “The Competent Authority shall exchange .....,”.

### **C. MULTILATERAL CONVENTIONS PERMITTING EXCHANGE OF INFORMATION FOR TAX PURPOSES**

The Netherlands are participating in the following multilateral conventions on exchange of information: Council of Europe/OECD Convention on Mutual Assistance in Tax Matters, within the European Community the European Mutual Assistance Directive is in force.

### **D. DOMESTIC LAWS**

The Netherlands have the International Mutual Assistance Act, implementing the international obligations to supply information to treaty-partners. Direct access to information by a foreign jurisdiction is not possible. The information needed can be requested at the competent authority, which will take care that our tax officers, or public prosecutor gather it as soon and complete as possible, all within the scope of the underlying tax-treaty. All requests for information on tax matters should be made through the competent authorities of the treaty-partners. This involves court decisions as well, if the applicable treaty provides for such a disclosure.

### **E. COMMERCIAL SOURCES OF INFORMATION**

The Trade Register is kept at the local Chamber of Commerce (Kamers van Koophandel en Fabrieken). After an N.V. or B.V. has been cleared by the Ministry of Justice, the entity must register with each Chamber district within which it operates.

Certain particulars of the N.V. or B.V. such as the amounts of the authorised and paid-up capital, the location of the registered office and the powers granted to its officers and directors, together with the Articles of Incorporation and By-laws, must be entered in the Trade Register. Registration enables third parties to ascertain whether a given company exists legally and who has the authority to bind the company and to what extent. Likewise, the resignation, suspension or dismissal of an officer or a director must be entered before the N.V or B.V. will be released from its responsibility for the acts of the person in question. Registration is likewise required for branch operations and partnerships. In order to secure information on a registered entity, a request can be made in writing to the Kamer van Koophandel office where the business is located. Requests for information can be made directly, but can also be submitted to the competent authorities.

### **BANK INFORMATION**

As a rule, a bank will not release specific information regarding a client's account to a third party. Each bank has its own policy and some may reply as to the presence of an account in giving general credit information to their parties.

## **F. OTHER SOURCES (PUBLIC RECORDS)**

### ***Patents and Trademarks***

Patent information is available in the public reading room at the Netherlands Patent Office in Rijdszijk. This office also has a library which contains patent journals of several countries and many volumes of some 1200 technical periodicals. Copies of any material at the Patent Office can be furnished within 24 hours from receipt of the order. Trademarks must be registered with the Benelux Trademark Office, in The Hague. The information is available on CD ROM.

### ***Copyrights***

Information on copyrights must be requested in writing and sent to the Vereniging van Auteursrecht in Amsterdam. The Netherlands is a party to the Berne and Universal Copyright Conventions.

### ***Land Transfers***

Information on land transfers is available to the public and can be obtained from the Dienst van het Kadaster en de Openbare Registers in Apeldoorn. The register shows the owner and former owners and the cost of the property. Information on the mortgage and loans on the property can be obtained by writing to the Hypotheek Register Office in the district where the property is located.

### ***Birth, Death and Marriage records***

The above records are generally available to the public, however, there are no central files for these types of information in The Netherlands. Requests for the above information must be addressed to the Bevolking Register Office in the district where the birth, death or marriage occurred.

The tax administration however, has its own computerised data-base, which is adapted continuously from all the Bevolking Register Offices in the country. Treaty partners can ask for information from this base, by a request to the competent authorities for the exchange of information, implying name, initials, date of birth.

### ***Court records and Wills***

Court records are not available to the general public and may not even be made available to the parties involved. Wills are also not available to the general public however, family members may approach the Ministry to inquire as to whether they have been named as heirs in the will. In rare instances, the Ministry of Justice may release some of the information to concerned parties. All requests should be made in writing and addressed to the Director of Research and Information at the Ministry of Justice.  
Appraisals / Valuation assistance

Assistance is provided for the determining the valuation of property and assets. This can be done by inspection and research of public records. A request for this assistance may be made through a competent authority letter.

***Certification/Authentication of Records***

Documents may be certified at the public office which is responsible for the subject records. A processing fee will be charged for this service.

	Are records public?		Are records centralised?		Available electronically ?		How are records indexed?			Data Required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records		X	X			X	X			Difficult to obtain. Written request & consent of parties recommended
wills		X	X			X	X			Difficult to obtain. Written request & consent of parties recommended
patents	X		X		X		X			Indexed in a public reading room
trademarks	X		X		X		X			Registration number is needed
copyrights	X		X		X		X			Written request
commercial register	X		X				X	X		Must contact district office where business is located
corporation charter	X		X				X	X		Must contact district office where business is located
land transfer records	X		X		X		X	X		Province where property is located
birth records	X			X		X	X	X		Date of event helpful
death records	X			X		X	X	X		
marriage records	X			X		X	X	X		
bank information		X		X			X	X		Each bank has own policy
credit information		X		X			X	X		Credit rating for a fee
foreign tax returns	Not available									
alien registration lists		X	X		But incomplete					
shipping registry	X		X							
aircraft registry	X		X							
company records		X		X						Mist be request under Treaty
company by-laws	X			X						District where business is located
company financial statements			X							Available on NV and certain BV companies
taxpayer identification number		X	X	X						Date of birth. Place of residence
certified copies of public records										
other public records:										

## **NEW ZEALAND**

### **A. FORMS OF BUSINESS**

#### **1. *Company***

Separate legal entity, distinct from the shareholders, directors and members who create or operate the business. Taxed as a company.

#### **2. *Branch Operation***

Branch of a foreign company taxed as a company on New Zealand income.

#### **3. *Partnership***

Association of persons carrying on business as partners. Each individual taxed on their share of the partnership income.

#### **4. *Joint Venture***

#### **5. *Trust***

#### **6. *Sole Trader***

Person trading on their own account. Taxed as an individual.

### **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

#### **1. Income Tax treaties that include exchange of information provisions:**

25

#### **2. Estate Tax treaties that include exchange of information provisions:**

Nil

#### **3. Tax information exchange agreements or conventions:**

One. Memorandum of Understanding with Australia Taxation Office.

4. Mutual Legal assistance treaties that provide for exchange of information for tax purposes:

Nil

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Nil

**D. DOMESTIC LAWS**

Sections 16 and 17 of the Tax Administration Act 1994 permit IRD to access information which is normally secret. Treaty partner jurisdictions can request the information through Exchange of Information Article of relevant treaty.

**E. COMMERCIAL SOURCES OF INFORMATION**

New Zealand Companies Office  
Ministry of Commerce  
Dun & Bradstreet Creditgate  
Dun & Bradstreet Desktop Solutions  
Newspaper indexes  
Mercantile Gazette

**F. OTHER SOURCES OF INFORMATION**

	Are records public?		Are records centralised?		Available electronically ?		How are records indexed?			Data Required to obtain records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records	X			X		X	X			Name
wills	X			X		X				Name & date of death
patents	X		X							
trademarks	X		X							
copyrights	X		X							
commercial register										
corporation charter	X		X		X					
land transfer records	X			X		X	X	X		Address of property. Name of ownder
birth records	X		X			X	X			Name
death records	X		X			X	X			
marriage records	X		X			X	X			
bank information		X	X			X	X			Name and/or address, date of birth
credit information	X		X		X		X			
foreign tax returns		X	X				X			Name and address
alien registration lists		X								Name and date of birth
shipping registry	X		X							Name of ship
aircraft registry	X		X							Serial number of aircraft
company records	X		X							Name of company
company by-laws	X		X							
company financial statements	*	+			X					Name of company
taxpayer identification number		X	X							Name and date of birth
certified copies of public records										
other public records:										

\* If publicly listed company

+ If publicly owned company

## NORWAY

### A. FORMS OF BUSINESS

Corporations (companies with limited liability) are legal entities and are taxed independently of their owners. Corporation include:

- Public company with limited liability (alment aksjeselskap, ASA). An enterprise where none of the shareholders have personal responsibility for the liabilities of the enterprise. A minimum share capital of NOK 1 000 000 is required when establishing an ASA company in Norway, whereof 50% are payable upon registration and the rest within one year.
- Private company with limited liability (privat aksjeselskap, AS). An enterprise where none of the shareholders have personal responsibility for the liabilities of the enterprise. The minimum share capital is NOK 50 000, whereof 50% are payable upon registration and the rest within one year.

Both ASA and AS companies may be established with one or more parties. At least 50% of the founders must have been resident in Norway or in an EEA member state for at least two years.

The general manager and 50% of the Board of Directors must be Norwegian or EEA citizens. The Board of Directors is elected by the shareholders at a general meeting. Special regulations regarding labour representation on the board of directors apply for larger companies.

*Unincorporated businesses* (enterprises with unlimited liability) are not treated as separate tax entities, although they may be considered legal entities in other respects. Unincorporated businesses include:

- General partnerships (ansvarlig selskap, ANS). An enterprise where the partners have an unlimited personal responsibility for the aggregate liabilities of the enterprise, jointly, or partly if the parts put together constitute the whole of the liabilities of the enterprise and the enterprise acts as such towards third parties.
- Limited partnerships (kommandittselskap, KS). An enterprise where at least one of the partners has an unlimited responsibility for the liabilities of the enterprise and there is at least one partner who has a limited responsibility for a state amount of the liabilities of the enterprise unless that partner is a silent partner.
- Silent partnerships. An enterprise which does not act as such towards third parties. The partners may have either limited or unlimited responsibility.

*Individual enterprises* (sole proprietorship)

Foundations. Financial property can be organised as a separate legal entity in Norway through a "stiftelse" (foundation). To qualify as a "stiftelse" the foundation must have a clearly defined and distinguishable purpose and must be governed by an independent board. Once established the foundation has no owners other than itself. Foundations are often established for non-commercial purposes and are then tax-exempt to the extent that they do not conduct ordinary business. If they do conduct business they are liable to corporate tax. Any withdrawal from the foundation must be in compliance with its statutes.

All of the business above must be registered at the Bronnoysund Register Center. All changes in share capital, board members etc. must also be registered here.

**B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

1. Income Tax Treaties (that are in force) between Norway and the following countries include exchange of information provisions:

Australia, Austria, Azerbaijan, Barbados, Belgium, Benin, Brazil, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, France, Gambia, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Latvia, Lithuania, Luxembourg, Malawi, Malta, Mexico, Netherlands, Netherlands Antilles, New Zealand, Pakistan, Philippines, Poland, Portugal, Romania, Russia, Senegal, Sierra Leone, Singapore, Slovak Republic, South Africa, Spain, Sri Lanka, Switzerland, Sweden, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, USA, Venezuela, Vietnam, Zambia, Zimbabwe.

2. Estate Tax Treaties between Norway and the following countries include exchange of information provisions:

U.S.A.

3. Tax information exchange agreements or conventions:

See under C

4. None

The office to contact is in all cases:

The Directorate of Taxes  
Control and Accountancy Department  
PO Box 6300 Etterstad  
0603 Oslo

Tel: 47 22 07 70 00 ; Fax: 47 22 07 71 08

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Nordic Convention, Council of Europe/OECD Convention on Mutual Assistance in Tax Matters.

The office to contact is the same as under B.

**D. DOMESTIC LAWS**

There is no general distinction between foreign and domestic access to publicly available information, i.e. foreign persons or jurisdictions have access to publicly available information on the same terms as Norwegians.

Relevant domestic authorities, e.g. the tax authorities, may have statutory access to information that is not publicly available. Such information may be available for foreign authorities only through conventions and treaties, etc.

**E. COMMERCIAL SOURCES OF INFORMATION**

Dun & Bradstreet Norge AS is Norway's leading commercial source of market and credit information, and have information on all Norwegian private and public enterprises, and all individuals taxed in Norway. The address is:

Dun & Bradstreet Norge AS  
 PO Box 34 Okern  
 N0508 Oslo  
 Tel: 47 22 91 52 00 ; Fax: 47 22 91 53 03

**F. OTHER SOURCES OF INFORMATION**

We recommend use of the central source of information in Norway, the BRONNOYSUND Register Centre. Which is a government body under the Norwegian Ministry of Justice and consists of several different national EDP registers: The Register of Mortgaged Movable Property, The Register of Business Enterprises, The Register of Annual Company Accounts, The Central Co-ordinating Register for Legal Entities, The Register of Bankruptcies, The Register of Marriage Settlements, The National Fee Collecting Office, The Register of the Reporting Obligations of Enterprises. These registers contain information and key data about such matters as: Liabilities and titles in mortgaged moveable property, more than 265 000 business enterprises, more than 1 000 000 annual accounts and auditor's report of limited companies, bankruptcies and compulsory liquidations.

Address:

Bronnoysundregistrene  
 8900 Bronnoysund  
 Tel: 47 75 00 75 00 ; Fax: 47 75 00 75 05

**Table**

**1. Court Records**

In penal cases, any person or jurisdiction who demonstrates interest in the case, is entitled to access to the court minutes and related documents. For civil cases, copies of the court minutes are available to the public except in unusual circumstances. Records are located locally, in town or country courts.

**2. Wills**

Wills do not have to be registered to be valid. Registered wills are not public as long as the testator is alive, but are available to the public (through probate court) upon the testator's death.

**3. Patents and 4. Trademarks**

A register is maintained by the Directorate for the Protection of Industrial Property, located in Kobenhavngt 10, 0566 Oslo, and is available to the public.  
 Tel: 47 38 73 00 ; Fax: 47 22 38 73 01

**5. Copyrights**

Not available from public records.

**6. Commercial Register and 7. Corporation Charter**

The Register of Business Enterprises in the Bronnoysund Register Centre, has taken over the functions of the former local company registers. The databases of this register contain information about Norwegian and foreign businesses in Norway that are obliged, or entitled, to be registered. Approximately 265 000 firms are registered. Of these, there are about 135 000 limited companies, and more than 95 000 individual enterprises.

A VAT system is kept by the Country Tax Director. This register contains persons and firms obligated to pay Norwegian VAT.

**8. Land Transfer Records**

The register of deeds is not centralised, but is maintained by the district stipendiary magistrate (sorenskriver). Due to the local records, location of the land must be known in order to obtain information.

**9-11. Birth, Death and Marriage Records**

The Central Office of Population Registration maintains information which includes name, address, date of birth, place of birth, date of death, matrimonial status, and the personal registration number. Address:

Postboks  
6300 Etterstad  
0603 Oslo  
Tel: 47 22 07 70 00

**12. Bank Information**

Bank information is not public, but may be available through the competent authority.

**13. Credit Information**

Credit information is not public, but may be available from special commercial inquiry agencies which are private companies found in all major cities.

**14. Foreign Tax Returns**

Tax Returns are not publicly available.

The tax affairs of persons and companies not resident in Norway are dealt with by the:

Central Office - Foreign Tax Affairs  
Prinsensvei 1  
4300 Sandnes  
Tel: 47 51 96 96 00 : Fax: 47 51 67 85 59

Foreign persons resident in Norway are dealt with by local tax offices.

### **15. *Alien Registration Lists***

The central office of population registration registers anyone resident in Norway and provides them with a birth number (national identity number). Persons with short-term (less than - months) residence or no residence (but other relationship) in Norway may also be registered and provided with a D-number.

### **16. *Shipping Registry***

There are two ship registers in Norway. One includes primarily coastal and passenger ships (the Norwegian Register of Ships), and the other Norwegian International Register of Ships, the registers primarily ships involved in international trade.

Postboks 1010  
5013 Bergen  
Tel: 47 55 54 12 50 ; Fax: 47 55 54 12 75

### **17. *Aircraft registry***

A register of civil aircrafts is available through Luftfartoyregisteret, Oslo.

Postboks 8124 Dep  
0032 Oslo  
Tel: 47 22 94 20 00 ; Fax: 47 22 94 23 90

### **18. *Company Records and 19. Company By-Laws***

See above, under 6 and 7.

### **20. *Company Financial Statements***

Limited companies, savings banks, mutual insurance companies and petroleum companies are required to send their annual reports to the Register of Annual Company Accounts in Bronnoysund. This information is available to the public. Information on other kinds of companies' financial statements is available by competent authority request. Each company's stock register is available to the public from the corporation's head office. Address: as under F.

**21. Taxpayer Identification Number**

For personal tax-payers the personal registration number of the population register is used for identification purposes, see 9 above. Companies have specific organisation numbers, which are available from the tax authorities or the Bronnoysund Register Centre. Address as under F.

**POLAND****A. FORMS OF BUSINESS****PARTNERSHIPS:****Civil/ private partnership (spółka cywilna)**

A partnership is created by the deed of partnership, in which partners undertake to promote the attainment of a common economic objective by acting in a special manner, in particular, by making contributions. The deed of partnership shall be made in writing. A partner's contribution may consist in contributing property or other rights into partnership or in providing services. It is presumed that the partners' contributions are equal of value. A partner can not make any disposition of the share in the partners' common property nor of his share in particular elements of such property. The partners shall bear joint and several liability for the partnership's obligations. A partnership is registered in the economic activity register. In contradiction to the below mentioned forms of business this one is run on the ground of the Civil Code.

**Registered partnership (spółka jawna)**

A registered partnership is a partnership, which runs, in the partners joint name, a profit making enterprise of a larger size, and which does not constitute any other type of the commercial company. The deed of partnership shall be made in writing. Partnership shall be registered in the commercial register. Each partner shall be liable to the creditors for the partnership's obligations, without limitation, with his whole property, jointly and severally with other partners and the partnership.

**Limited partnership (spółka komandytowa)**

A limited partnership is a partnership, whose purpose is to run, on a larger scale, a profit making enterprise or an agricultural farm under a joint business name, under condition that at least one partner holds unlimited liability for obligation of the partnership towards the creditors, and the liability of at least one partner (a limited partner) is limited. The deed of a limited partnership must be made in the form of notarial deed. A limited partnership is formed upon registration in the commercial register.

**Limited joint-stock partnership (spółka komandytowo – akcyjna)**

Limited joint-stock partnership is a partnership aiming at conducting an enterprise under its own business name, in which at least one partner (general partner) has unlimited liability towards the partnership's creditors and at least one partner is a shareholder, who is not liable for obligations of the partnership. The initial capital amounts to at least 50.000 zlotys. The statute of limited joint stock partnership shall be drawn up in the form of notarial deed.

**Professional partnership (spółka partnerska)**

Professional partnership is a partnership formed by partners being natural persons and authorized to practice the liberal professions listed in the code of commercial partnerships and companies, with the purpose of practising a liberal profession in a partnership conducting an enterprise under its own business name. One of the most important feature is that a partner does not bear liability for partnership's obligations arisen in relation to the practising of liberal profession by the remaining partners or resulting from action or default of the persons employed by the partnership but being subordinate to another partner. The deed of professional partnership shall be made in form of a notarial deed, and professional partnership comes into being upon entry into the register.

**COMPANIES:**

**Limited liability company (Spółka z ograniczoną odpowiedzialnością - sp. z o.o.)**

Limited liability companies may be formed by one or more persons for any legal purposes. The initial capital shall amount to, at least, 50.000 zlotys. A share cannot amount to less than 500 zlotys. Shareholders shall bear no personal liability for the company's obligations. In order to form a limited liability company the following requirements shall be made: execution of a deed of company formation; contribution of the entire initial capital; appointment of the company bodies; and registration in the commercial register. A company acquires legal personality upon registration. The deed of company formation must be executed in the form of a notarial deed. Foreign limited liability companies can be admitted to operate in Poland exclusively under permission of Minister of Economy.

**Joint - stock company (spółka akcyjna – S.A.)**

A joint - stock company is a company, which is formed by at least three promoters, unless the state or a local authority is its promoter. The statute of joint-stock company must be executed in the form of a notarial deed and the company shall be registered in the commercial register. Upon registration the company acquires legal personality. The initial capital (share capital) of the joint - stock company shall be divided into shares of equal nominal value. The share capital of a company shall amount to at least 500 000 zlotys. Foreign joint -stock company may be admitted to operate in Poland.

## B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES

DTAs concluded by Poland

	Country	Agreement		
		Signed on	Entry into force	Applied from
1	Albania	05.03.1993	27.06.1994	01.01.1995
2	Australia	07.05.1991	04.03.1992	01.01.1993
3	Austria	02.10.1974	22.07.1975	01.01.1974
4	Belgium	14.09.1976	21.09.1978	01.01.1979
5	Byelorussia	18.11.1992	30.07.1993	01.01.1994
6	Bulgaria	11.04.1994	10.05.1995	01.01.1996
7	Canada	04.05.1987	30.11.1989	01.01.1989
8	China	07.06.1988	07.01.1989	01.01.1990
9	Croatia	19.10.1994	11.02.1996	01.01.1997
10	Cyprus	04.06.1992	07.07.1993	01.01.1994
11	Czech Republic	24.06.1993	20.12.1993	01.01.1994
12	Denmark Protocol	06.04.1976 17.05.1994	20.11.1976	01.01.1974
13	Estonia	09.05.1994	09.12.1994	01.01.1995
14	Finland Protocol	26.10.1977 28.04.1994	30.03.1979	01.01.1980
15	France	20.06.1975	12.09.1976	01.01.1974
16	Germany Protocol	18.12.1972 24.10.1979	14.09.1975	01.01.1972
17	Greece	20.11.1987	28.09.1991	01.01.1992
18	Hungary	23.09.1992	10.09.1995	01.01.1996
19	India	21.06.1989	26.10.1989	01.01.1990
20	Indonesia	06.10.1992	25.08.1993	01.01.1994
21	Ireland	13.11.1995	21.12.1995	01.01.1996
22	Israel	22.05.1991	30.12.1991	01.01.1992
23	Italy	21.06.1985	26.09.1989	01.01.1984
24	Japan	20.02.1980	23.12.1982	01.01.1982
25	Yugoslavia	10.01.1985	27.12.1985	01.01.1986
26	Jordan	04.10.1997	22.04.1999	01.01.2000
27	Kazakhstan	21.09.1994	13.05.1995	01.01.1996
28	Korea	21.06.1991	21.02.1992	01.01.1991
29	Latvia	17.11.1993	30.11.1994	01.01.1995
30	Lithuania	20.01.1994	19.07.1994	01.01.1995
31	Luxembourg	14.06.1995	11.07.1996	01.01.1997
32	Malaysia	16.09.1977	05.12.1978	01.01.1977
33	Malta	07.01.1994	24.11.1994	01.01.1995
34	Morocco	24.10.1994	29.03.1995	01.01.1996
35	Moldavia	16.11.1994	27.10.1995	01.01.1996
36	Netherlands	20.09.1977	07.11.1981	01.01.1978
37	Norway	24.05.1977	30.10.1979	01.01.1976
38	Pakistan	25.10.1974	24.11.1975	01.01.1973
39	Philippines	09.09.1992	07.04.1997	01.01.1998
40	Portugal	24.02.1995	01.01.1999	04.02.1998
41	Republic of South Africa	10.11.1993	5.12.1995	01.01.1996
42	Romania	23.06.1994	15.09.1995	01.01.1996
43	Russia	22.05.1992	22.02.1993	01.01.1994
44	Singapore	23.04.1993	27.11.1993	01.01.1993
45	Slovenia	28.06.1996	10.03.1998	01.01.1999
46	Slovak Republic	18.08.1994	21.12.1995	01.01.1996
47	South Korea	21.06.1991	21.02.1992	01.01.1991
48	Spain	15.11.1979	06.05.1982	01.01.1983
49	Sri Lanka	25.04.1980	21.10.1983	01.01.1983
50	Sweden	05.06.1975	18.02.1977	01.01.1974

	Country	Agreement		
		Signed on	Entry into force	Applied from
51	Thailand	08.12.1978	13.05.1983	01.01.1983
52	Tunisia	29.03.1993	15.11.1993	01.01.1994
53	Turkey	03.11.1993		
54	Ukraine	12.01.1993	11.03.1994	01.01.1995
55	United Arab Emirates	31.01.1993	21.04.1994	01.01.1995
56	United Kingdom	16.12.1976	25.02.1978	01.04.1975
57	United State of America	08.10.1974	23.07.1976	01.01.1974
58	Uzbekistan	11.01.1995	29.04.1995	01.01.1996
59	Vietnam	31.08.1994	20.01.1995	01.01.1996
60	Zimbabwe	09.07.1993	28.11.1994	01.01.1995

Besides its DTAs, Poland has entered into agreements on mutual assistance in the field of exchange of information with Sweden, Italy and the Ukraine.

Request for information should be directed to The Ministry of Finance, Department of Direct Taxes, 12 Świętokrzyska str, 00-916 Warsaw, Poland.

Simultaneous tax examinations

Working Agreement for the conduct of simultaneous tax examination

### **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters.

European Convention on legal assistance in penal matters done in Strasbourg on 20 April 1959 and Additional Protocol with regard to fiscal crimes done on 17 March 1978.

### **D. DOMESTIC LAWS**

Access to information by foreign judicial bodies may be obtained on the ground of European Convention on Information on Foreign Law, dated August 7<sup>th</sup>, which concerns civil cases 1968 and Protocol to this Convention dated March 15<sup>th</sup>, 1978, which covers criminal cases. Request for information should always be directed to The Ministry of Justice, Department of International Cooperation and European Law, Al. Ujazdowskie 11, 00 - 950 Warsaw, by foreign judicial body, even though the request was not drawn up by it, and only for the purposes of the proceedings already instituted.

The obligation to deliver the information on own law for the purposes of judicial organs arises from bilateral agreements on legal assistance concluded by Poland with Algeria, Austria, Belgium, Byelorussia, Bulgaria, Czech Republic, Egypt, Finland, Iran, Yugoslavia, North Korea, Cuba, Lithuania, Latvia, Morocco, Russia, Rumania, Syria, Tunisia, Ukraine, Vietnam.

The Ministry of Justice does not impart information on the Polish law to foreign natural or legal persons.

As far as public registers are concerned at present only the register of liens and pledges is available in the Ministry of Justice.

According to new law of 20 August 1997 on Central Court's Register, which will enter into force on January 1<sup>st</sup>, 2001 Central Court's Register will be also available electronically. For now only records maintained in register of pledges are available in this form; moreover in nearest future will be accessible in "on-line" way.

**F. OTHER SOURCES OF INFORMATION**

MINISTRY OF INTERNAL AFFAIRS, ul. Stefana Batorego 5, 02-514 Warsaw  
 NATIONAL CHAMBER OF COMMERCE, Trębacka 4, 00-074 Warsaw  
 AGENCY for FOREIGN INVESTMENTS, Al. Róż 2, 00-559 Warsaw

	Are Records Public?		Are Records Centralised?		Available electronically?		How are Records Indexed?			Data Required to Obtain Records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
Court Records		x		x		x	cases by year			apart from persons involved only attorneys
Wills		x		x		x				
Patents	x		x						x	date of registration of patent
Trademarks	x		x						x	date of registration of trademark
Copyrights*	x		x				by title and author's name			
Commercial Register	x			x		x	x	regional courts	x	name of firm, location and date of registration
Corporation Charter	N/A									
Land Transfer Records		x		x		x		regional courts		
Birth Records**		x	x				Death and birth offices by town of birth			on request only by direct line ancestor; name/place/date required
Death Records**		x	x				Death and birth offices by town of death			see above
Marriage Records		x	x				Vital statistic offices by town of marriage			see above
Bank Information		x		x			by banks			on request of depositor; court and tax authorities may also request
Credit Information		x		x			by banks			on request of person or institution
Foreign Tax Returns		x					by appropriate for place of residence tax offices			on request of tax authorities
Alien Registration Lists		x	x							
Shipping Registry	x			x			name of ship by year			
Aircraft Registry	x		x							
Company Records										
Company By-Laws	N/A									
Company Financial Statements		x		x						request directly from company
Taxpayer Identification Number		x	x			x				on request of tax authority; such a request must be well - grounded
Certified Copies of Public Records	are issued by competent offices, in which copies are maintained									
Other Public Records										

\* Request for information should be directed to ZAiKS, Hipoteczna 2, 00-092 Warsaw, fax:+ 48 22 828 13 47 or + 48 22 828 92 04  
 \*\* Birth and death records are also maintained in Central Bank of Data - PESEL

## **SPAIN**

### **A. FORMS OF BUSINESS**

List and describe the forms of doing business and terminology used to identify these forms (e.g. corporation, partnership, joint venture).

The most common forms of business organisations in Spain, are:

#### **Sole or individual Proprietor (Empresario o comerciante individual)**

The sole or individual proprietor carries out, in his own name, an industrial or commercial economic activity in an organised and professional way. He is personally liable for all liabilities incurred by the firm's operations. There are no formal prerequisites for being a sole proprietor and it is not necessary to register in the Commercial Register.

#### **Public Limited Companies (Sociedades Anónimas)**

Public Limited Companies are characterised by the fact that the liability is limited to capital contributed. Minimum capital is set at 10 Million Pta. and is divided into shares. All Public Limited Companies must register in the Commercial Register of their provincial capital. The company name must include the indication *Sociedad Anónima* or its abbreviation S.A.

#### **Private Limited Companies (Sociedades de Responsabilidad Limitada)**

Private Limited Companies are similar to Public Limited Companies in that they are comprised of capital and the liability of its members is limited to the amounts actually contributed. They differ in the fact that the capital is not divided into shares but participations. These participations are incorporated into certificates, but these certificates are not negotiable. Minimum capital is set at 500.000 Pta. and the company must be registered in the Commercial Register. The company name must include the indication: *Sociedad de Responsabilidad Limitada*, *Sociedad Limitada* or its abbreviations SRL or SL. This form of business organization is excluded in case certain activities are carried out.

#### **Unipersonal Private Limited Companies (Sociedades Unipersonales de Responsabilidad Limitada)**

This is a particular case from the former. It is a company set up by a sole partner, either a natural or a legal person, or a company previously set up by two or more partners, when all the participations become owned by a sole partner. The company must state its condition of unipersonal on every document used: mailing, invoicing... etc...

#### **General Partnership (Sociedades Colectivas)**

In a General Partnership it is not essential that all partners contribute capital, but all must contribute their skills. There must be at least two partners. Creditors may seize company and personal assets of each of the partners. The company name must include one or several partners names along with the words... y *compañía S.R.C.* (and company, General Partnership). The partnership must register in the Commercial Register

#### **Co-ownership or Tenancy in Common (Comunidades de Bienes)**

They can take place when an object is owned by a plurality of individuals without material division (*pro-indiviso*). Its legal form does not differ from a co-ownership or a community. They can act as entrepreneurs and from the legal point of view they are irregular general partnerships (trading partnerships by virtue of its object), although they have no obligation to register in the Commercial Register.

### **Limited Partnership (Sociedades Comanditarias)**

In a Limited Partnership there must be at least one non-limited partner (general working) who contributes skills and capital and at least one limited partner who contributes exclusively capital. General partners take charge of company management and have unlimited liability for company debts. Limited partners are only liable up to the capital contributed. The company name must include the name of at least one general partner and the phrase... *y compañía, Sociedad en Comandita* (and Company, Limited Partnership). These partnerships must also be registered in the Commercial Register. In Spain also exists the *Sociedad Comanditaria por Acciones*, halfway between the Limited Partnership and the Public Limited Company.

### **Joint venture (Asociación de Cuentas en participación)**

A joint venture is an association of individuals or businesses which form a union for a particular business in his own name and under his own liability while the others contribute capital alone. There is no obligation to register in the Commercial Register.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List bilateral conventions and treaties in force with both Member and non-member countries. Please specify office that field personnel should contact in order to make a request for information.

### **1. *Income tax treaties that include exchange of information provisions:***

Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, China, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Morocco, Netherlands, Norway, Philippines, Poland, Portugal, Romania, Russian Federation, Sweden, Thailand, Tunisia, United Kingdom, United States, URSS.

### **2. *Estate tax treaties that include exchange of information provisions:***

2.1 France

2.2 Sweden

### **3. *Tax information exchange agreements or conventions:***

Sweden (Agreement on Extended Exchange of Information)

### **4. *Mutual legal assistance treaties that provide for exchange of information for tax purposes:***

In order to make a request for information, correspondence should be addressed to: Equipo Central de Información (Internacional). Oficina Nacional de Investigación del Fraude (ONIF), Agencia Tributaria (AEAT), c/ Cardenal Marcelo Spínola 2, Pl. 3ª, 28016 MADRID (Previously, c/ Santa Maria Magdalena, 16. Pl. 1ª. 28016 MADRID)

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

List multilateral conventions in force to which your government is a party (e.g. Nordic Convention, Council of Europe/OECD Convention on Mutual Assistance in Tax Matters, Hague Evidence Convention, Hague Convention and Abolishing the Requirements for Foreign Public Documents). Please specify office to contact in order to make a request for information.

Council Directives 77/799/EEC , 79/1070/EEC and 92/12/EEC (Art. 30).

European Convention on Mutual Assistance in Criminal Matters 20.04.1959 (Additional Protocol).

Hague Evidence Convention (18.03.1970)

Hague Convention on Abolishing the Requirements of Legalisation for Foreign Public Documents

In order to make a request for information, same as in B.

**D. DOMESTIC LAWS**

Describe domestic laws that permit access to information by a foreign jurisdiction or foreign person or that provide a procedure for obtaining such access (e.g. a statute that permits foreign jurisdictions to ask a court to require the disclosure of certain information)

According to the Spanish Law, the international judicial co-operation on every matter is governed by the Organic Law of the Judiciary (Law 6/85, dated July 1<sup>st</sup>, Official Gazette, 02.07.1985), articles 276 to 278. It is set forth that the Spanish Courts will render the foreign judicial authorities any co-operation requested in order to carry out the jurisdictional function, in accordance with the international Conventions and Treaties from which Spain is a party. Therefore, these international treaties will define the matter on which the co-operation can be requested as well as the via to carry it out.

In default of the former, and always according to the Organic Law of the Judiciary, such a co-operation will be equally rendered if the Spanish Government, through the Ministry of Justice, determines either that the reciprocity with the foreign judiciary authority that requests the co-operation is proved, or that such a reciprocity is offered by the foreign authority at the moment of carrying out the request and that suffices.

The mutual co-operation might be denied in the following events:

- A matter of exclusive responsibility of the Spanish authority
- A request that does not meet the authenticity requirements or it is not drawn up in Spanish.
- A request sent to a non-competent authority. In this case, this authority is compelled to remit the request to the Spanish competent authority.
- When the object of co-operation would be contrary to the public order

Regarding the procedural rules to set in motion such a co-operation, they are included in the provisions of the various Conventions and Treaties. In default of the former, the co-operation on Private Law matters will be governed by Article 300 of the Law of Civil Prosecution, (*Ley de Enjuiciamiento Civil*) (03.02.1881). The co-operation on Criminal Law matters will be ruled by Articles 193 and 194 of the Law of Penal Prosecution (*Ley de Enjuiciamiento Criminal*) (14.09.1882).

## **E. PUBLIC RECORDS**

### **1. Court Records**

Access to both civil and criminal court records is limited in Spain. The information, in most cases, may only be released by the court through written permission of the affected persons. In criminal proceedings, records will only be made public if the individual was found not guilty. *The Registro Central de Penados y Rebeldes* in Madrid will release a certificate relating to any individual who has been convicted of a crime.

### **2. Wills, Probate Proceedings, Appraisals**

All wills must be registered at the *Registro de Ultimas Voluntades* in Madrid (*Address: Ministerio de Justicia, c/ San Bernardo 19 and 45*). They can release the fact that an individual does or does not have a will on file, but the contents are not public information. Probate proceedings are not made public.

### **3. Patents**

The patent is a certificate granted by the state to the inventor. This gives him the right to be considered the inventor and exclusively exhibit his invention. The invention can make reference to a device, a product or a procedure. This right of manufacture, sale or use is granted for a maximum term of twenty years. The certificate is granted by the Spanish Office of Patents and Trademarks (*Oficina Española de Patentes y Marcas. Address: c/ Panamá, 1. 28071 MADRID*), previously Industrial Property Register (*Registro de la Propiedad Industrial*). An annual fee has to be paid in order to keep the right.

### **4. Trademarks**

A trademark is any sign or means used in the market to differentiate products or services provided by a person, from the ones provided by another person. The registration of trademarks in the *Oficina Española de Patentes y Marcas* is mandatory. The trademarks used may be names or emblems that do not lead to error or confusion with other existing trademarks. The right to use a trademark lasts 10 years but it can be renewed for successive periods of 10 additional years.

### **5. Copyrights**

Authors rights can be voluntarily registered in the Copyright Register (*Registro de la Propiedad Intelectual. Address: c/ Zurbarán, 1. 28010 MADRID*) in order to reinforce and facilitate the protection that the law grants to the author in any event. The works protected must be scientific, literary or artistic and their protection lasts the lifetime of the author plus seventy additional years.

### **6. Commercial Register**

Traders or sole proprietors register voluntarily in the Commercial Register (*Registro Mercantil*), existing in all provincial capitals and other towns (Central office's address: *Colegio de Registradores Mercantiles y de la Propiedad de España, c/ Príncipe de Vergara, 72. 28006 MADRID*). Registration is mandatory for commercial concerns, vessels and aircraft dealing in commercial activity as well as shipowners.

Registration must include the trade name, type of activity, address, branches, date company begins operating, by-laws, etc. In addition, registration must include all other facts which may be of importance or interest for other companies, individuals or the public in general. This should include powers of attorney, revocation of powers, issue of debentures, modification of a company's by-laws, etc.. A page is opened for each company and any successive information or facts related to each are noted. The Commercial Register is public and any person can request information concerning its contents. The by-laws must be included in the corporate charter which is then reported in the Commercial Register.

The Commercial Register should include all successive changes to the company as they occur. This will be up to date and reflect current conditions. Articles of incorporation, reorganisations, changes of capitalization, liquidation and bankruptcies are part of the Commercial Register.

#### **7. *Land Transfer Records***

All real estate information concerning the transfer of property in Spain must be recorded in a Real Estate Register (*Registro de la Propiedad*) maintained by the same officials as the Commercial Register. Such Registers exist in all provincial capitals and other populated towns.

#### **8. *Birth, Marriage and Death Records***

Birth, marriage and death certificates (*partidas de nacimiento, matrimonio y defunción*) are obtainable from the Juzgado Municipal (*Municipal Court*) of the district of birth, marriage and death. For births, marriages and deaths which had taken place outside of Spain, information is centralised in the *Registro Civil Central* (Address: c/ Montera, 18. 28013 MADRID)

#### **9. *Availability of Certified and Authenticated Copies***

Depending on the information requested, all public records should be issued under the signature and seal of the competent authority. Documents must be stamped in order to be valid.

#### **10. *Other Records***

Register of Foreign Investments (*Registro de Inversiones*) is a Public Administration Register governed by the Regulations of Foreign Investments (R.D. 664/99, 234 Official Gazette 04.05.99). Its essential functions are the administrative, statistical and economic control. This is not a public register, although statistical analysis of the global amounts of investment are regularly published.

### **F. COMMERCIAL SOURCES OF INFORMATION**

#### **1. *Bank information***

As a matter of principle, a bank does not release information on account holders to a third person who could request it. Nevertheless, the judiciary and the fiscal authorities have access to bank information following the appropriate legal procedures.

#### **2. *Credit Information***

Credit information may be obtained but only from commercial sources.

In the Bank of Spain there exists a "Central Unit of Risk Information" (*Central de Información de Riesgos - CIR*) that provides data regarding credits, but only to another banks. The information given to individuals can only deal with their own situation. There also exists in the Bank of Spain an "Unpaid Accepted

Documents Register” (*Registro de Aceptaciones Impagadas –RAI-*), referred to credit documents (bills, unpaid debts, etc.), that stores (as in every country) confidential information, the use and disclosure of which is strictly governed.

### **3. *Company Records, By-laws, Financial Statements, Shareholder Lists and Annual Reports***

By-laws, as previously mentioned, and financial statements as well as shareholders’ names and Annual Reports must be presented in the Commercial Register and made public. Company records can only be obtained directly from the company itself. These records are not required to be made public but they must be presented when requested by the Spanish government (e. g. for fiscal reasons). Books, correspondence and other documents are required to be maintained for a period of five years.

### **4. *Chamber of Commerce***

The High Council of Chambers of Commerce (*Consejo Superior de Cámaras de Comercio. Address: c/ Velázquez, 157, 1º. 28002 MADRID*) does not issue a general yearbook of associated companies. However, there exists a nationwide database (CAMERDATA), where all kind of companies, either individual or partnership are included. There appears the name, registered address, activity, legal form and number of branches, and sometimes, the number of employees, etc. Access is public, but services must be paid. A web page that can be found in the following address: [www.camerdata.es](http://www.camerdata.es), enables free consultation of 50 data.

## **G. OTHER SOURCES OF INFORMATION**

### **List and describe other sources of information**

#### ***Alien Registration Lists***

This register is administered by the Police (*Dirección General de la Policía*). It does not have a public nature. The data stored (classified by name and Foreign Identification Number –FIN-) are not, in general, available to third parties. Nevertheless, in Spain those data can be requested by public organizations that have authority in matters concerning foreign citizens (Ministries for Foreign Affairs, Labor, Social Affairs etc.), as well as by the Judiciary and the Tax authorities.

#### ***Tax Returns***

Information on tax returns is not public, but may be requested from the Ministry of Finance through the exchange of information procedures.

(See Table. Location of records and name of the office have been included in the text above)

**PUBLIC RECORD - SPAIN**

	Are Records Public?		Are Records Centralized?		Available Electronically?		How are Records Indexed?			Data Required to Obtain Records	
	Yes	No	Yes	No	Yes	No	Name	Location	Date		
Court Records		X		X		X	X	X	X	Consent of persons involved	
Wills	X		X		X		X			In writing (Ministry will only make public the existence of a will)	
Patents	X		X		X		X			In writing, and by fax and e-mail	
Trademarks	X		X		X		X			“	
Copyrights	X			X	X		X			In writing	
Commercial Register	X		X		X		X			In writing and via Internet	
Corporation Charter	X			X		X	X			In writing and by fax	
Land Transfer Records	X			X		X	X			In writing	
Birth Records	X			X		X	X		X	Apply in person, in writing or by fax	
Death Records	X			X		X	X		X	“	
Marriage Records	X			X		X	X		X	“	
Bank Information		X		X			X			Information can be obtained via tax treaty and through the judiciary	
Credit Information		X									
Foreign Tax Returns		X		X	X		X			Information can be obtained via tax treaty	
Alien Registration Lists		X	X		X		X			Also indexed by F.I.N. Specific information can be obtained via tax treaty	
Shipping Registry	X		X		X					In writing (indexed by matriculation number)	
Aircraft Registry	X		X		X					“ (It is necessary to show a legitimate interest)	
Company Records		X		X						Specific information can be obtained via tax treaty	
Company By-Laws	X			X		X	X			In writing and by fax	
Company Financial Statements	X		X		X		X			In writing and via Internet	
Taxpayer Identification Number		X	X		X		X			Information can be obtained via tax treaty	
Certified Copies of Public Records			Depending on type of material requested, can be issued under name and seal of Competent Authority								
Other Public Records											

## SWEDEN

Swedish terminology is put in brackets.

### A. FORMS OF BUSINESS

Corporations (aktiebolag) can be either public, with a minimum share capital of 500,000 SEK, or private, with a minimum share capital of 100,000 SEK. There is no equivalent of the German GmbH form of business.

Partnerships can be either ordinary partnerships (handelsbolag), where all the partners have an unlimited liability, or limited partnerships (kommanditbolag), where one or more of the partners (kommanditdelägare) have a liability limited to their share in the partnership. In a kommanditbolag, there has to be one partner (komplementär) with unlimited liability.

Incorporated associations (ekonomiska föreningar) are common particularly in areas of consumer co-operation and (agricultural) producer co-operation.

As a result of Sweden's EU membership, the EEIG (Europeisk Ekonomisk Intressegemenskap) has been introduced as a new type of business.

Registers of all the above-mentioned forms of business are kept centrally by the Swedish Patent and Registration Office (Patent- och registreringsverket, Bolagsavdelningen, 851 81 Sundsvall, Sweden).

### B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES.

Exchange of information is provided for in all the treaties except the Nordic Treaty (because there is a separate mutual assistance treaty) and the treaty with Switzerland, i.e. in the treaties with

Albania (not yet in force), Argentina, Australia, Bangladesh, Barbados, Belgium, Bolivia, Botswana, Brazil, Bulgaria, Canada, Cyprus, Egypt, Estonia, the Philippines, France, Gambia, Greece, India, Indonesia, Ireland, Israel, Jamaica, Japan, Yugoslavia, Kazakhstan, Kenya, China (the Peoples Republic of), Korea, Latvia, Lithuania, Macedonia, Malaysia, Malta, Morocco, Mauritius, Mexico, Namibia, the Netherlands, New Zealand, Pakistan, Peru, Poland, Romania, the Russian Federation, Singapore, the Slovak republic, Spain, Sri Lanka, the United Kingdom, the Republic of South Africa, Tanzania, Thailand, the Czech Republic, Trinidad and Tobago, Tunisia, Turkey, Germany, the Ukraine, Hungary, Venezuela, Vietnam, Belarus, Zambia, Zimbabwe and Austria.

Many of the treaties, but far from all of them, cover income tax as well as estate tax.

(to be completed later on)

### **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

Sweden is a party to

- the Nordic Convention
- the Council of Europe/OECD Convention on Mutual Assistance in Tax Matters.

The Hague Conventions, to which Sweden is also a party, appear to be of little importance in this context.

Under all the treaties and conventions listed above, the Swedish National Tax Board (Riksskatteverket, 171 94 Solna, Sweden) is the competent authority.

In addition to treaties and conventions, the relevant EU directives and regulations are of course binding upon Sweden as well as other Member States.

### **D. DOMESTIC LAWS**

Under the 1980 Secrecy Act (SFS 1980:100), most of the information held by tax authorities is protected by secrecy provisions. However, the Act provides for disclosure of information to other agencies if an obligation to provide information is specifically laid down in a law or a government regulation (Chapter 14 Section 1), or if the public interest in obtaining the information is obviously more important than the interest of protection (Chapter 14 Section 3). As tax treaties have the form of law, provisions in such treaties on exchange of information are the basis for making information available under Chapter 14 Section 1.

### **E. COMMERCIAL SOURCES OF INFORMATION**

Bank information is available only through competent authority request and to the extent it is covered by an obligation for the banks to supply information for taxation purposes.

Credit information is available from commercial firms (kreditupplysningsföretag). By law the firm selling the information must notify the company or person about whom the questions are being asked. Much of the relevant information, such as overdue tax amounts, injunctions to pay etc., is also available from the Enforcement Authorities (kronofogdemyndigheterna).

In addition to registration data about corporations (please see above), company charters and financial statements are available for a fee from the Patent and registration office (Patent- och registreringsverket).

The only public record of ownership of corporations in general is the list of shareholders kept at the company's headquarters. However, ownership records can be obtained through a competent authority request. In addition, all shares listed on the Stockholm Stock Exchange (Stockholmsbörsen) and a number of other types of financial instruments are registered by the Securities Registration Centre (Värdepapperscentralen AB, 171 18 Solna, Sweden).

### **F. OTHER SOURCES OF INFORMATION**

Most of the information in the U.S. document still seems to be accurate. It should be pointed out, though, that the centralisation of the land transfer records has now been completed. Records are available from the Land Surveying Office (Lantmäteriverket, 801 82 Gävle, Sweden). It should also be mentioned that central records are kept of, inter alia,

- motor vehicles and their owners by the National Road Administration (Vägverket, 781 87 Borlänge, Sweden),
- mortgages on a company's assets (företagsinteckning) by the District Court of Malmö (Malmö tingsrätt, Box 265, 201 22 Malmö, Sweden),
- premarital settlements, documents of division of joint property and gifts between husband and wife (äktenskapsregistret) by the national Statistics office (Statistiska centralbyrån, 701 89 Örebro, Sweden),
- registered ships and aircraft - their owners and mortgages - by the District Court of Stockholm (Stockholms tingsrätt, Box 8307, 104 20 Stockholm, Sweden).

## SWITZERLAND

### A. FORMS OF BUSINESS

#### *Companies with share capital*

The Swiss Obligations Code (*Code suisse des obligations*, CO) establishes four forms of companies with share capital:

- Corporation [*société anonyme (SA)*, *Aktiengesellschaft (AG)*], CO Sections 620-761;
- Private limited liability company [*société à responsabilité limitée (SàRL)*, *Gesellschaft mit beschränkter Haftung (GmbH)*], CO Sections 772-827;
- Co-operative (*société coopérative*, *Genossenschaft*), CO Sections 828-926;
- Limited partnership with share capital (*société en commandite par actions*, *Kommanditaktiengesellschaft*), CO Sections 764-771.

This last type, which in practice is extremely rare, will not be covered in this summary.

#### *Corporation (SA)*

- The corporation is the most commonly found legal form in Switzerland.
- It can be **defined** as a legal entity whose participants (shareholders) are not personally liable for the company's debts, their financial obligations being limited to the amount of their investment (shares) in the company.
- When it is **created** (via a formal notarial act), a corporation must have at least three shareholders.
- Once it is founded and by-laws adopted, a corporation must be registered with the **Swiss Commercial Register** in order, *inter alia*, to assume a legal identity. This registration carries with it a bookkeeping obligation.
- Aggregate **shares, in registered or bearer form** (the unit value of which must be at least SF 10 but is generally SF 100 or a multiple thereof), form the **capital stock**, which must total no less than SF 100 000. Each share confers entitlement to vote at the general meeting of shareholders, but some shares may carry preferential voting rights. It should be further noted that capital can be increased or decreased, by issuing new shares or adjusting the par value of existing shares.
- **The general meeting of shareholders** is the supreme body of a corporation. It generally takes place once per year, and it is this meeting that appoints the corporation's other bodies, oversees its management, decides how profits should be distributed and approves the annual accounts. The **Board of Directors** has responsibility for general operations, whereas the **auditing body** is assigned to examine the company's books.
- When a company goes out of business, it is dissolved at the conclusion of a **liquidation** procedure.

*Private limited liability company (SàRL)*

- Private limited liability companies are increasingly common in Switzerland.
- **Shareholders** each possess **only one share in the company**, the value of which can vary (in multiples of 1 000), and they are jointly and severally liable for the firm's debts and obligations, even in excess of the amount of their own investment, but liability cannot exceed the amount of the company's capital stock. Any transfers of shares must be approved by three-quarters of the shareholders representing three-quarters of the capital stock.
- Like a corporation, a private limited liability company must be **created** via a formal notarial act, adopt by-laws and be registered with the **Swiss Commercial Register**, which gives it a legal identity and obliges the company to keep its books.
- The **capital stock**, comprised by the shares of the participants, must total no less than SF 20 000 and no more than SF 2 000 000. Shareholders' voting rights are proportional to their respective shares of the capital.
- **The general meeting of associates** is the supreme body of a private limited liability company and takes place at least once per year. It is this meeting that appoints the company's other bodies, oversees its management, decides how profits should be distributed and approves the annual accounts. Unless the by-laws or the general meeting of associates decides otherwise (by appointing external managers), all of the associates are **managers of the company**, and there is **no auditing body**.
- When a company goes out of business, it is dissolved at the conclusion of a **liquidation** procedure.

*Co-operative*

- This legal form is the least widespread of the three and is used primarily in the agriculture, real estate and chain-store retailing sectors.
- A co-operative must have **at least seven members**, each possessing one vote. The members' interests (like the capital stock or company assets) can vary and may or may not be divided into shares. The aim of a co-operative is to foster, or to ensure, through joint action, the economic interests of its members, who, unless the by-laws stipulate otherwise, are not jointly liable for the co-operative's debts and obligations in excess of the amount of capital they invest therein.
- A co-operative must be registered with the **Swiss Commercial Register** (hence the obligation to keep its books) and appoint an **auditing body**.
- **The general meeting of associates** is the supreme body of a co-operative. It is this meeting that appoints the co-operative's other bodies, oversees its management and approves the accounts. A co-operative is managed by at least three **administrators**, whose powers are delegated by the associates.

*Partnerships*

The Swiss Obligations Code provides for three forms of partnerships (not invested with legal personality):

- General partnership [*société en nom collectif* (SNC), *Kollektivgesellschaft*], CO Sections 552-593;
- Limited liability partnership [*société en commandite* (SC), *Kommanditgesellschaft*], CO Sections 594-619;
- Ordinary partnership or joint venture [*société simple* (SS), *einfache Gesellschaft*], CO Sections 530-551.

#### *General partnership*

- A general partnership is an **association of two or more natural persons**, based on a contract of association (with no obligation to establish a formal notarial act) for the purpose of engaging in a commercial activity. Like companies with share capital, a general partnership must be registered with the **Swiss Commercial Register**. It may initiate legal proceedings, and legal proceedings may be taken against it. Its name must include the name of one or more associates.
- No minimum capital stock is required, and the **associates**, who jointly manage the company, are **jointly and severally liable** for its debts and obligations vis-à-vis third parties on all of their assets; registration with the **Swiss Commercial Register** obliges a general partnership to keep its books, but there is no requirement to appoint an auditing body.

#### *Limited liability partnership*

- Broadly similar to a general partnership, a limited liability partnership is an association of **one or more associates having unlimited liability** (natural persons only) and one or more others, known as **limited partners** (who may be either natural or legal persons), whose liability is limited to a specified amount. The former are therefore jointly and severally liable, without limit, for the company's debts and obligations vis-à-vis third parties, whereas the latter's liability is limited to the amount of their respective contributions to the capital stock registered with the **Swiss Commercial Register**.
- The **name of the firm** must include the name of at least one of the associates with unlimited liability, as well as the term “& Co.”. A limited liability partnership is required to register with the **Swiss Commercial Register** (hence the obligation to keep its books) and to record therein the shares of the limited partners.

#### *Ordinary partnership (joint venture)*

- An ordinary partnership is the **simplest form of association**. It is based on a contract of association, which may or may not be in writing, and it can have economic or non-profit objectives. There must be at least two associates—either natural or legal persons—who are jointly and severally liable for the firm's debts and obligations. It need not be registered with the **Swiss Commercial Register** and need not have a name. Rules with regard to bookkeeping and auditing are determined freely by the associates. This is the legal form taken, under Swiss law, by **joint ventures**.

Lastly, it should be noted that in Switzerland, whose legal system is rooted in the Romano-Germanic tradition, the Anglo-Saxon legal form of “trust” does not exist.

## **B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

### **1. *Income tax treaties that include exchange of information provisions***

With regard to exchange of information and mutual administrative assistance, Switzerland, as a rule, takes the same stance vis-à-vis countries with which it has entered into treaties, whether or not those treaties contain a specific exchange of information clause based on Article 26 of the OECD Model Convention. This is because Switzerland considers that the very existence of a double taxation treaty with a third country confers an implicit obligation to provide information to that other state—providing that the commitment to exchange information covers only such information as is necessary for proper application, and to combat abusive use, of the double taxation treaties to which the Swiss Confederation is a party.

Consequently, this excludes any request for information involving application of the domestic law of one of the contracting states. Moreover, in this regard Switzerland has lodged a reservation concerning Article 26 of the OECD Model Convention, whereby it limits the scope of the article to information necessary for carrying out the provisions of the Convention. Switzerland deems that information vital to proper application of the conventions may in fact already be exchanged under existing treaty provisions concerning the mutual agreement procedure or the reduction of withholding tax, for example.

### **2. *Estate tax treaties that include exchange of information provisions***

Switzerland's position on double taxation treaties concerning estate taxes is the same, *mutatis mutandis*, as its position with regard to such treaties involving income and wealth taxes.

### **3. *Tax information exchange agreements or conventions***

For the reasons invoked in section B.1, Switzerland has not signed any agreements or conventions of this sort.

### **4. *Mutual legal assistance treaties that provide for exchange of information for tax purposes***

Sections 6ff of the US-Switzerland Treaty of Mutual Assistance in Criminal Matters of 25 May 1973 allows for mutual legal assistance in criminal matters, but only in respect of tax evasion cases in which there are strong suspicions that the taxpayer concerned is an important member of an organised criminal group and as such is subject to a severe sentence.

## **C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

For the reasons invoked in section B.1, Switzerland has not signed any conventions of this sort.

## **D. DOMESTIC LAWS**

Switzerland grants legal assistance under a large number of bi- and multilateral treaties, as well as under domestic law.

## 1. *Civil and commercial law*

With respect to civil and commercial law, and regarding investigations and the administration of evidence, the following multilateral instruments warrant particular mention:

- The Hague Convention Relating to Civil Procedure of 17 July 1905;
- The Hague Convention Relating to Civil Procedure of 1 March 1954;
- The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of 18 March 1970.

These international treaties are supplemented by an extensive network of bilateral agreements.

In civil and commercial matters, Switzerland has long extended ordinary legal assistance, even in the absence of a treaty, operating by analogy on the basis of the 1954 Hague Convention Relating to Civil Procedure.

Today, the *Federal Act on Private International Law of 18 December 1987* stipulates, in Section 11, that acts of mutual legal assistance shall be carried out in Switzerland in accordance with the law of the canton in which they are performed and that, at the request of foreign authorities, foreign procedures may be followed or taken into account if that proves necessary for the pursuit of a claim abroad (unless there are compelling reasons, involving the person in question, not to do so). Section 11 also states that Swiss judicial and administrative authorities may establish documents in forms prescribed by foreign law and receive an applicant's sworn statements if the use of a form provided for by Swiss law but not recognised abroad would prevent legitimate claims from being admissible in a foreign court.

## 2. *Criminal law*

With regard to mutual legal assistance in criminal matters, Switzerland is a party to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, and it has signed a great many bilateral treaties in this area.

In the area of tax fraud, the Federal Act of 20 March 1981 on Mutual Assistance in Criminal Matters and the Ordinance of 24 February 1982 on Mutual Assistance in Criminal Matters allow for legal assistance to be provided on a reciprocal basis in accordance with Title III of the said Act.

## E. COMMERCIAL SOURCES OF INFORMATION

- The main official source of commercial information is the *Swiss Commercial Register*. The Register is *maintained by the cantons*, and each canton is free to organise the Register as it sees fit, within the limits imposed by federal law (CO Sections 927-946). In addition, a *Central Commercial Register* is maintained in Bern.

Additions to, and deletions from, the Commercial Register are published in the *Official Swiss Commerce Report (Feuille officielle suisse du commerce, FOOSC)*.

There is also a *Swiss Commercial Register Yearbook* (*Annuaire suisse du Registre du commerce*), which is updated each year by a private publisher. The same publisher also publishes yearly editions of the *Swiss Directory of Administrators* (*Répertoire suisse des administrateurs*) and the *Swiss Index of Shareholdings* (*Atlas suisse des participations*).

- Regarding *trademarks, patents and industrial designs*, the relevant registers are maintained by the *Federal Institute of Intellectual Property* in Bern.
- Lastly, in the *area of real estate*, official records are kept in the *cantonal property registers*. These are *maintained by the cantons*, and each canton is free to organise the register as it sees fit, within the limits imposed by federal law [Sections 942-977 of the Swiss Civil Code (CC)].
- The *competent government authorities* for economic, tax and commercial matters, including:
  - *The Federal Office of External Economic Affairs;*
  - *The Federal Office of Economic Development and Employment;*
  - *The Federal Tax Administration;*
  - *The Cantonal Offices of Public Economy;*
  - *The Cantonal Offices of Economic Development;*
  - *The Cantonal Tax Administrations.*
- Other sources are the *bilateral Chambers of Commerce* that have been set up with Switzerland's main trading partners:
  - *The German-Swiss Chamber of Commerce* (Zurich);
  - *The Franco-Swiss Chamber of Commerce* (Paris, Lyons, Marseilles, Mulhouse);
  - *The Italian-Swiss Chamber of Commerce* (Milan, Chiasso).
- Lastly, the *Statistical Yearbook of Switzerland* presents the main statistical data about the Swiss economy.

## F. OTHER SOURCES OF INFORMATION

- Economic press;
- Umbrella organisations [*“Vorort”* (federation of employers' unions), Swiss Bankers' Association, Swiss Fiduciary Chamber, etc.];
- Swiss Stock Exchange Association.

## **Table**

### *Comments*

Regarding responses to “Are Records Public?”, it should be noted that public registers, with the notable exception of the Register of Commerce and registers dealing with trademarks, patents and copyrights, may not as a rule be consulted unless the applicant is legally entitled to do so.

As for whether information is “Available electronically?”, no single response can be entered for each item. Most of the databases cited, whether public or private, are about to be migrated to electronic media. Given Switzerland’s federal structure and the diversity of situations within business enterprises, the projects formulated by these companies and the cantons are at very different stages of development. It is therefore impossible to give final and categorical responses to the questions asked.

	Are Records Public?		Are Records Centralized?		Available electronically?		How are Records Indexed?			Data Required to Obtain Records
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
Court Records		X	X				X		X	Name and date
Wills		X		X						
Patents	X		X				X			Name
Trademarks	X		X				X			Name
Copyrights	X		X				X			Name
Commercial Register	X		X				X	X		Name and place (address)
Corporation Charter	X		X				X	X		Name and address
Land Transfer Records	X		X					X		Place
Birth Records	X		X				X	X	X	Name, place of birth, parents' names
Death Records	X		X				X	X	X	Name and place
Marriage Records	X		X				X	X	X	Name and place
Bank Information		X		X			X	X		
Credit Information		X		X			X	X		Via private agencies
Foreign Tax Returns		X	X				X	X	X	Name, place and date
Alien Registration Lists		X	X				X			Name and birth date
Shipping Registry	X		X							Name
Aircraft Registry	X		X							Name of owner
Company Records		X		X						
Company By-Laws	X		X							Name and address
Company Financial Statements	X			X						
Taxpayer Identification Number		X		X						
Certified Copies of Public Records	X		X				X			Name
Other Public Records	X		X				X			Name

## UNITED KINGDOM

### A. FORMS OF BUSINESS

#### *Company*

A Company is a legal person distinct from its owners. Its owners are usually shareholders (so called because they each own a share of the company). But some companies may have members who are not shareholders, for example, companies set up by statute (principally certain public corporations such as Urban Development Corporations and Harbour Commissions) or companies “limited by guarantee” (so-called because each member guarantees a certain sum which he or she can only be called on to pay in the event of the company being wound up).

Nearly all companies have limited liability. This means that a shareholder’s liability is limited to his or her share in the capital of the company. No claim can be made against his or her personal assets, except where there is a specific personal guarantee. Against that, if a company is wound up, the shareholders rank below all the company’s creditors.

A company is defined in UK tax law (at section 832(1) of the Income and Corporation Taxes Act 1988) as “any body corporate or unincorporated association”. “Body corporate” is what we normally understand by the term “company”. “Unincorporated associations” are entities such as members’ clubs, voluntary organisations, unit trusts, and religious communities.

#### *Joint venture*

“Joint venture” is a fairly loose term. We generally take it to be a business venture between two or more persons (typically but not necessarily companies) who usually have equal shares in the business. If the joint venture is expected to be a semi-permanent arrangement it is likely to be carried on through the medium of a company set up for the purpose. Where it is entered into for a particular short-term purpose, for example, to carry out a single large contract or project, it will take the form of a business relationship similar to a partnership but falling short of a true partnership in some way.

#### *Partnerships*

Partnership is defined by statute as the relation which subsists between persons who carry on business in common with a view of profit. Except in Scotland a partnership does not have a legal person separate and distinct from its members. Members of a partnership (partners) may be either individuals or companies.

A partnership is regarded as transparent for the purposes of assessment of tax. In other words the partnership is not chargeable to tax on its profits. Rather each partner is chargeable to tax on their share of the partnership’s profits.

#### *Sole Trader*

The UK’s tax system taxes the profits of a trade or trades. Someone who is said to be a sole trader carries on their trade or business alone, often as the owner manager or individual proprietor, rather than as a company or in partnership. A sole trader is taxed on the profits from that trade at normal income tax rates.

Whether someone is a sole trader for tax purposes is a question of fact. It is not a distinct legal business form in the same way that a company is.

**B. BILATERAL CONVENTIONS AND TREATIES THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

- A list of the UK's income tax treaties which include provisions for exchange of information is attached at Annex A. A list of the personnel designated to deal with enquiries for the exchange of information is attached at Annex B.
- A list of the UK's estate tax treaties is attached at Annex C. The contact point for exchanges of information is:

Mr Peter Twiddy  
Capital Taxes Office  
Ferrers House  
PO Box 38  
Castle Meadow Road  
Nottingham  
NG2 1BB  
England  
Tel: 0115 974 2913

- The UK has no tax information exchange agreements or conventions.
- The UK has no mutual legal assistance treaties which provide for exchange of information for tax purposes beyond what the UK can provide under tax treaties and tax legislation.

**C. MULTILATERAL CONVENTIONS THAT PERMIT EXCHANGE OF INFORMATION FOR TAX PURPOSES**

**D. DOMESTIC LAWS**

- The Income and Corporation Taxes Act 1988 enables the Inland Revenue to (i) include provisions in double taxation agreements for the exchange of information necessary to allow the UK, and other signatory, to administer their domestic law in relation to the taxes covered by the agreement (Section 788(2)); and (ii) to disclose information as required to the authorised officer of the other party to the agreement (Section 816(2)).
- EC directive on Mutual Assistance No. 777/799/EEC, implemented in domestic law by Section 77 Finance Act 1978. This provides for the disclosure of information for the purposes of taxation, or of proceedings for failure to observe tax law. The legislation requires the Inland Revenue to satisfy themselves, before supplying information, that the recipient state has confidentiality rules no less strict than their own. The Inland Revenue have obtained assurances on this from all states.

**E. COMMERCIAL SOURCES OF INFORMATION AND**

**F. OTHER SOURCES OF INFORMATION**

See (i) comments at Annex D which lists amendments to be extracted from the US publication "Sources of Information from Abroad", (ii) "commercial sources of information" at Annex E, and (iii) copy completed table at Annex F.

ANNEX A

UK's DOUBLE TAXATION CONVENTIONS ( INCOME AND CAPITAL GAINS TAX)

Antigua	Luxembourg
Argentina	Macedonia (former UK/Yugoslavia)
Australia	Malawi
Austria	Malaysia
Azerbaijan	Mauritius
Bangladesh	Mexico
Barbados	Mongolia
Belarus (former UK/USSR)	Montserrat
Belgium	Morocco
Belize	Myanmar
Bolivia	Namibia
Botswana	Netherlands
Brunei	New Zealand
Bulgaria	Nigeria
Burma	Norway
Canada	Oman
China	Pakistan
Croatia (former UK/Yugoslavia)	Papua New Guinea
Cyprus	Philippines
Czech Republic (former UK/Czechoslovakia)	Poland
Denmark	Portugal
Egypt	Romania
Estonia	Russian Federation
Falkland Islands	St Kitts, Nevis
Fiji	Sierra Leone
Finland	Singapore
France	Slovak Republic (former UK/Czechoslovakia)
Gambia	Slovenia (former UK/Yugoslavia)
Germany	Solomon Islands
Ghana	South Africa
Greece	Spain
Grenada	Sri Lanka
Guernsey	Sudan
Guyana	Swaziland
Hungary	Sweden
Iceland	Switzerland
India	Thailand
Indonesia	Trinidad & Tobago
Ireland	Tunisia
Isle of Man	Turkey
Israel	Turkmenistan (former UK/USSR)
Italy	Tuvalu
Ivory Coast	Uganda
Jamaica	Ukraine
Japan	USA
Jersey	Uzbekistan
Kazakhstan	Venezuela
Kenya	Vietnam
Kiribati	Yugoslavie (Federal Republic of) former UK/Yugoslavia)
Korea	Zambia
Latvia	Zimbabwe
Lesotho	

**ANNEXE B**

**UK COMPETENT AUTHORITIES FOR EXCHANGE OF INFORMATION UNDER INCOME  
TAX AND CAPITAL GAINS TAX TREATIES**

Technical exchanges, and mutual agreement, in major cases concerning transfer pricing (including simultaneous examination, questions relating to Advance Pricing Agreements and corresponding adjustments), international financial transactions, the use of tax havens and of differences between the domestic law of the two treaty partners, and general technical exchanges including industry-wide exchanges.

R.E. Haigh, Deputy Director  
Inland Revenue, International Division  
Victory House, 30-34 Kingsway  
LONDON WC2B 6ES  
Telephone: 0171 438 7574 Fax: 0171 438 7629

Deputies: A. Attwood, Assistant Director (0171 438 7405)  
G. Black, Assistant Director (0171 438 7575)  
D.J. O'Mahony\*, International Specialist (0171 438 6868), (\* designated)  
A.J. Hickman\*, International Specialist (0171 438 6916) caseworkers

Artificial avoidance schemes

E. Jukes, Assistant Director  
Special Investigations Section  
Inland Revenue, Compliance Division  
22 Kingsway  
LONDON WC2B 6NR  
Telephone: 0171 438 7980 Fax: 0171 438 6441

Deputy: T.W.P. Small\*, Investigator, (0171 438 6595) (\* designated caseworker)

International insurance and reinsurance transactions

R. Thomas, Assistant Director  
Inland Revenue, Financial Institutions Division  
Somerset House,  
LONDON WC2R 1LB  
Telephone: 0171 438 7838 Fax: 0171 438 6514

Oil related matters

(a) Technical exchanges and mutual agreement, with special reference to transfer pricing (including questions relating to Advance Pricing Agreements and corresponding adjustments) and related matters, and general technical exchanges on topics relating to the petroleum industry.

R.C. Mountain, Controller  
Inland Revenue, Oil Taxation Office  
Melbourne House, Aldwych  
London wc2b 4ll  
Telephone: 0171 438 6908 Fax: 0171 438 7602

Deputy: Ms J. Cross, Deputy Controller (0170 438 7579)

c) Offshore employment matters in the North Sea and continental shelf

J. McGuigan, Group Leader  
Inland Revenue, special Compliance Office (Edinburgh.  
Haymarket House, & Clifton Terrace  
EDINBURGH ECH12 5EX, Scotland

Telephone: 131 313 7816 Fax: 131 313 7859

*All other specific and spontaneous exchanges*

Miss J Courtney, Head of London Liaison Unit  
Inland Revenue, Special Compliance Office (London)  
Angel Court, 199 Borough High Street  
LONDON SE1 1HZ

Telephone: 171 234 3832 Fax: 171 234 3892

**NB:** Callers dialling any of the above numbers from outside the UK should omit the first O and replace it by the UN international code 44.

ANNEX C

UK's ESTATE TAX TREATIES

<u>Country</u>	<u>Taxes covered</u>
France	Estate Duty, Capital Transfer Tax and Inheritance Tax
India	Estate Duty
Republic of Ireland	Capital Transfer Tax
Italy	Estate Duty, Capital Transfer Tax and Inheritance Tax
Netherlands	Capital Transfer Tax and Inheritance Tax
Pakistan	Estate Duty
South Africa	Capital Transfer Tax
Sweden	Capital Transfer Tax and Inheritance Tax
Switzerland	Inheritance Tax

## ANNEX D

### AMENDMENTS TO US PUBLICATION "SOURCES OF INFORMATION FROM ABROAD"

#### **A. Court Records**

Delete second paragraph and replace as follows:

"Copies of every will proved since 1858 can be found at the Probate Search Room, First Avenue House, 42-29 High Holborn, London, WC1 v 6NP (Tel: 0171 936 7000). Assets are not listed but some can be identified from specific bequests. To trace a will the name of the deceased and date of death must be known."

#### **B. Patents, Trademarks and Copyrights**

Delete and replace as follows:

"The United Kingdom Patent Office is the official body for the granting of patents and for the registration of designs and trade marks in the UK and is involved with domestic and international policy on all forms of intellectual property, including copyright, design right and other unregistered rights. Information on patents and trademarks can be obtained from the Patent Office - contact Central Enquiry Unit, The Patent Office, Concept House, Cardiff Road, Newport, south Wales, NP9 1rh 5Tel/ 06133 813930, email: [enquiries@patent.gov.uk](mailto:enquiries@patent.gov.uk). More information on the internet site at [www.patent.gov.uk](http://www.patent.gov.uk).

There is no central registration of copyright. The Patent Office internet site also has general information on copyright issues."

#### **C. Commercial Register**

Delete and replace as follows:

"Information on companies incorporated in the UK and on foreign companies operating in the UK. Records available include articles of association, shareholders details, directors details, annual financial statements and mortgages. Name of company or its registration number is required to access information. The three main offices are located at:

Companies House  
21 Bloomsbury Street  
London WC1B 3XD  
(Information and telesales: 01222 380801)

Companies House  
Crown Way  
Cardiff CF4 3UZ  
(Call centre and telesales: 01222 380801)

Companies House  
37 Castle Terrace  
Edinburgh EH1 2EB  
(Tel: 0131 535 5800)

More information on the internet site at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk).

**D. *Land Records***

Delete and replace as follows:

"The purpose of the Land Register of England and Wales is to register title to land and to record dealings. The Chief Registrar is based at HM Land Registry, 32 Lincoln's Inn Fields, London, WC2A 3PH (Tel: 0171 917 8888) and there are 24 district Land Registries. Records are now computerised. More information on internet site at [www.landreg.gov.uk](http://www.landreg.gov.uk)."

**E. *Births, Deaths, Marriages, Divorces***

Delete and replace as follows:

"Records held for England and Wales at the Family History Centre, 1 Myddleton Street, London, EC1R 1UW, for personal callers. Certificates can be requested by post from General Register Office, PO Box 2, Merseyside PR8 2JD, (email: [certificate.services@ons.gov.uk](mailto:certificate.services@ons.gov.uk)). More information on internet site at [www.ons.gov.uk/services/cert/htm](http://www.ons.gov.uk/services/cert/htm)."

**ANNEX E**

**COMMERCIAL SOURCES OF INFORMATION**

Credit information: on individuals and companies can be obtained from a variety of commercial sources, e.g.

*Dun & Bradstreet*  
38 Finsbury Street  
London EC2A 1PX  
Tel: 0171 256 8733  
<http://www.dunandbrad.co.uk>

*Equifax*  
3 New Augustus Street  
Bradford BD1 5LL  
Tel: 01274 759759  
<http://www.infocheck.co.uk>

*Experian*  
Talbot House  
Talbot Street  
Nottingham NG1 5HF  
Tel: 0115 941 0888  
<http://www.experian.com/uk>

Chambers of Commerce: contact details for local chambers of commerce can be obtained from:

*British Chambers of Commerce*  
Manning House  
22 Carlisle Place  
London SW1P 1JA  
Tel: 0171 565 2000  
<http://www.britishchambers.org.uk>

	Are records public?		Are records centralised?		Available electronically?		How are records indexed?			Data to obtain records <sup>11</sup>
	Yes	No	Yes	No	Yes	No	Name	Location	Date	
court records										
wills	X		X			X	X	X	X	Name & date of death
patents	X		X		X		X		X	Name of patent, patent number
trademarks	X		X				X			Name
copyrights		X		X						
commercial register	X		X		X		X			Company name or registered number or directors name
corporation charter										
land transfer records	X		X		X		X			Address of property
birth records	X		X			X	X	X	X	Name, location and date
death records	X		X			X	X	X	X	" " "
marriage records	X		X			X	X	X	X	
bank information		X		X						
credit information		X		X						
foreign tax returns		X		X						Through treaty request only
alien registration lists										
shipping registry										
aircraft registry										
company records										
company by-laws										
company financial statements	X		X		X		X			Company name or registered number
taxpayer identification number		X								
certified copies of public records										
other public records:										

<sup>11</sup> In case of doubt, foreign tax administrations may contact the Federal Finance Office, 53221 Bonn

## UNITED STATES

### Forms of Business

All businesses in the United States take on one of the three following general forms:

12. ***Sole Proprietorship*** – An unincorporated business, owned by an individual, the activity of which is for the primary purpose of income and profit.
13. ***Partnership*** – An unincorporated organization of two or more persons (legal or natural) that, for legal and tax purposes, carries on a trade, business, financial operation, or other venture, and the partners of which divide the profits. Additionally, the entity does not meet any of the requirements listed below for corporations, is not classified as a real estate investment trust, or is not classified as a trust under IRS Reg. Sec. 301-7701-4.
14. ***Corporation*** – Any business formed under federal or state law that refers to itself as a corporation, body corporate, or body politic; any business formed under state law that refers to itself as a joint-stock company or joint stock corporation; insurance companies; certain banks; a business wholly owned by a state or local government; a business specifically required to be taxed as a corporation by the IRS (i.e., certain publicly traded partnerships); certain foreign businesses; any other business that elects to be taxed as a corporation by filing IRS Form 8832. A formal process is usually required to incorporate. The notion of limited liability applies in whole or in part.

**Bilateral Conventions and treaties that permit exchange of information of tax purposes**

*Income Tax Treaties in Force (49 total)*

Australia	India	Poland
Austria	Indonesia	Portugal
Barbados	Ireland	Romania
Belgium	Israel	Russia
Canada	Italy	Slovak Republic
China	Jamaica	South Africa
Commonwealth of Independent States	Japan	Spain
Cyprus	Kazakstan	Sweden
Czech Republic	Korea	Switzerland
Denmark	Luxembourg	Thailand
Egypt	Mexico	Trinidad & Tobago
Finland	Morocco	Tunisia
France	Netherlands	Turkey
Germany	New Zealand	Ukraine
Greece	Norway	United Kingdom
Hungary	Pakistan	
Iceland	Philippines	

*Estate and/or Gift Tax Treaties in Force (13 total)*

Australia	Ireland	South Africa
Austria	Italy	Sweden
Denmark	Japan	United Kingdom
Finland	Netherlands	
Germany	Norway	

*Tax Information Exchange Agreements (14 total)*

Barbados	Grenada	Marshall Islands
Bermuda	Guyana	Mexico
Costa Rica	Honduras	Peru
Dominica	Jamaica	St. Lucia
Dominican Republic		Trinidad & Tobago

*MLATS in Force with Exchange of Information Provisions (11 total)*

Anguilla	Montserrat	The Turks & Caicos Islands
The Bahamas	The Netherlands Antilles and Aruba	Uruguay
The British Virgin Islands	Panama	Russia
The Cayman Islands	Switzerland	

**Multilateral Conventions that Permit Exchange of Information for Tax Purposes**

*The O.E.C.D. Convention on Mutual Administrative Assistance in Tax Matters.*

**Domestic Laws**

Currently, no domestic laws exist that will permit direct access to information not otherwise public information by a foreign jurisdiction or foreign person or that provide a procedures for obtaining such access.

**Commercial Sources of information and other sources of information**

The commercial and other sources of information available in the United States are too numerous to be mentioned here.

Table: Attached.

	Are Records Public?	Are Records Centralized?	Available Electronically?	How Are Records Indexed?				Data Required to Obtain Records
				Name	Location	Date	Other	
Court Records	Yes	Yes	Partially	X		X	X	See Remarks
Wills	Yes	Locally	No	X		X		See Remarks
Patents	Yes	Yes	Yes	X	X	X	X	See Remarks
Trademarks	Yes	Yes	Yes	X	X	X	X	See Remarks
Copyrights	Yes	Yes	See remarks	X		X	X	See Remarks
Commercial Register	N/A							
Corporation Charter	Yes	Within state	No	X	X	X	X	See Remarks
Land Transfer Records	Yes	Locally	No	X	X	X	X	See Remarks
Birth Records	Yes	Locally	No	X		X		See Remarks
Death Records	Yes	Locally & SSA	SSA (see remarks)	X		X	X	See Remarks
Marriage Records	Yes	Locally	No	X		X		See Remarks
Bank Information	No							
Credit Information	No							
Foreign Tax Returns	No							
Alien Registration Lists	No							
Shipping Registry	Yes	Within state (see remarks)	No	X				Vessel name
Aircraft Registry	Yes	Yes	Yes	X			X	See remarks
Company Records	No							
Company Bylaws	Corporation only	Yes	No	X				See remarks
Company Financial Statements	No							
Taxpayer Identification Number	No							
Certified Copies of Public Records	N/A							
Other Public Records	See remarks							

**PUBLIC RECORDS TABLE OF INFORMATION**

***Introduction***

Generally, every record **made or received by a governmental entity** at any level is presumed to be a public record unless it is subject to specific exemption.

The Freedom of Information Act defines 12 such exemptions, each of which is subject to narrow construction. Most states have followed the general language of the Freedom of Information Act in drafting legislation to define access to public records that are under state or local jurisdiction.

These 12 exemptions include:

15. Records that are specifically or by necessary implication exempted from disclosure by statute.
16. Records that are related solely to internal personnel rules and practices of the governmental unit, but only to the extent that proper performance of necessary governmental functions requires such withholding.
17. Personnel and medical files or information; any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy. Such records may only be released if there is a paramount public interest. However, information relating to elected and appointed officials is subject to release if the information has direct bearing on the official's qualification for public office and discharge of public duties.
18. Records related to a deliberative process, such as during the process of policy formation. This exemption is not applicable to completed factual studies or reports.
19. Work-related notes that can reasonably be characterized as personal to an employee.
20. Investigatory material compiled out of public view by investigative personnel, if disclosure would compromise an ongoing investigation and it is not in the public interest to disclose.
21. Trade secrets, commercial or financial information voluntarily provided to a public agency to assist in policy development. This exemption does not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit.
22. Proposal or bids until the time arrives for their opening, and agency communications made in connection with an evaluative process prior to a decision to enter into negotiations with a particular person.
23. Appraisals of real property proposed to be purchased through eminent domain prior to a final decision to proceed.
24. Names and addresses of persons contained in or referred to in applications for any licenses to carry or possess firearms.
25. Library circulation records.
26. Test or examination instruments.

If a record is defined as public according to applicable law, concerns as to the intended usage may not be used to inhibit any person's right to examine or copy a public record. Further, governmental agencies must establish "reasonable rules for access during regular business hours." However, some states do impose penalties for failure to disclose that access to public records is intended for commercial purposes.

Public records are further categorized into those that are permanent in nature and those that are temporary.

Permanent records include the following: census, birth/death/marriage/divorce, naturalization proceedings, probate, land records including property ownership, military service, taxes, election results, civil and criminal suits, and education.

The fact that a record is not a public record does not infer that it is unavailable, merely that such availability does not infer right of access by any person.

## **REMARKS**

### ***Court Records***

Response to this category is restricted to cases tried before the various levels of the judiciary. Criminal charges lodged and civil suits filed, transcripts of testimony, and ultimate disposition of cases all become a matter of the public record, as do bankruptcy actions, liens filed, and other court filed actions. However, certain defined records, such as those relating to cases brought against juveniles, adoption hearings, and custody matters are subject to being "sealed" by the court.

In addition to various special interest courts at both state and Federal level, there are two co-equal, and largely independent court systems within the United States.

### ***Federal Court System***

The Federal court system concerns itself with those cases brought under the auspices of Federal law as enacted by Congress. The court system is three-tiered: The United States Supreme Court, the Federal Appellate courts, and the Federal District courts (the lowest level).

Trial records and transcripts are maintained at the District level. All cases receive docket numbers. Access to records and transcripts may be obtained by submitting a request to the appropriate Federal district court. The names of the parties involved or the docket number is required for an index search. Date information is useful but not required. A fee is charged.

Cases heard at the Federal appellate level are indexed in the F.Supp. record. Cases heard at the Supreme Court level are indexed in the F.1<sup>st</sup> or F.2<sup>nd</sup> record. These indices are available through subscription search vehicles. The primary search method is by name. Appellate and Supreme Court decisions are published and freely available in law libraries as well as on subscription search vehicles.

### ***State Court System***

State court systems are modeled on the Federal Court system. State courts concern themselves with matters of state law (all issues not reserved by the U.S. Constitution to the Federal government). Counties are the basic divisional unit of state government. Superior courts within counties constitute the lowest state court level. At the highest state level, a case may be appealed to the United States Supreme Court if the

issue involved is a Constitutional issue. State indexing systems and access to information are generally modeled on the Federal indexing system. Electronic access varies by state.

*Note:* Some municipalities maintain a separate court, usually restricted to the trying of misdemeanors, traffic violations, etc. Access requirements for such records are similar to requirements described for the lowest state or Federal court level.

### ***Wills***

Wills become a matter of public record when filed with the local jurisdiction (county) upon a person's death. The fact of the filing of a will may be available electronically, depending on the local jurisdiction. A request for a copy of a will so submitted or related documents (such as court orders proceeding from probate) must generally be submitted in person or in writing. The local jurisdiction defines the information necessary to locate a will so filed (name, date of death, date of submission, etc.).

A fee is usually charged for copies. A search fee may also be imposed.

### ***Patents and Trademarks***

Records of patents and trademarks granted are maintained by the U.S. Patent Office, which maintains a comprehensive database thereof. Records may be accessed in various ways (name of requester, date, address, product description, or a combination of information). Access to the database is free, however, the substantiation documentation related to the granting of a patent or trademark requires application and payment of a fee. No information concerning application for a patent or trademark is available prior to the granting thereof.

### ***Copyrights***

The U.S. Library of Congress maintains records of copyrights granted. A comprehensive database has been developed and is maintained on the Library of Congress Information Service (LOCIS). This is a subscription-only service. Subscribers may gain access to information on the database by name of requester, date of granting of copyright, or title or other descriptive information. Background documentation is also available to subscribers. Non-subscribers submit requests in person or writing and pay a fee for research and copies. No information concerning application for a copyright is available prior to the granting thereof.

### ***Corporation Charter***

A corporation charter is granted by the state in which the corporation claims its home office and makes application for incorporation. An application for a corporation charter must be accompanied by a description of the organizational structure, the names of its officers, its financial structure (stock), and its by-laws. This information becomes a matter of public record upon granting of the charter. The fact of the granting of a charter and other documentation may be available electronically, depending on the state. Application for copies of documentation must be made to the appropriate state government office in writing. Research and copying fees may be imposed.

### ***Land Transfer Records***

So-called land deeds, including title transfers, survey reports, easements, and similar records, are maintained at the local (county) level. Some or all of these records may be available electronically, depending on the local jurisdiction. Requests for documentation relating to such records or copies of the records themselves must generally be submitted in person or in writing. The local jurisdiction defines the information necessary to locate such records (owner's name, plat ID number, lot number, date of transfer, date of filing, etc.). A fee is usually charged for copies. A search fee may also be imposed.

### ***Birth, Death, and Marriage Records***

Birth, death, and marriage records (including records of divorce) are maintained at the local (county) level. The existence of these records may be available electronically, depending on the local jurisdiction, however, requests for copies must generally be submitted in person or in writing. The local jurisdiction defines the information necessary to location such records (generally, name, location of action, and/or date of action). A fee is usually charged for copies. A search fee may also be imposed.

*Note:* The Social Security Administration maintains an on-line "death registry," on which it is claimed that 61 million records reside. Access to the database is free. Information necessary to access records is, at the least, a full name. Additional information, such as place and date of death, is advantageous in refining the search. An unscientific search of this registry seemed to indicate that it was more accurate with regard to recent deaths than those in the more distant past.

### ***Shipping Registry***

Most commercial shipping concerns fly under "flags of convenience." In the United States, only Delaware has any significant activity in this area. Delaware's shipping registry information is not maintained electronically. The vessel name is necessary for access to information concerning vessels registered in Delaware. A fee is charged for research and copies.

### ***Aircraft Registry***

A registry of all private and commercial planes is maintained by the Federal Aviation Administration. The existence of the fact of a registration is available on-line on the FAA database. Database records may be accessed by the registered name of the owner (individual or corporation), the aircraft number, or both. Copies of a registration and supporting documentation must be requested in person or in writing. A research and copying fee is imposed.

### ***Company By-laws***

See information under **Corporation Charter**, above.

### ***Other Public Records***

There is a Constitutional requirement imposed on the Federal government that a national census be conducted every 10 years. Census statistics are considered, once released, to be public information. The

Bureau of the Census maintains these statistics. Current and historical information is available on-line and through various subscription search vehicles.

The fact of the naturalization of a foreign-born individual and of military service/veteran status are also considered to be matters of public record. Documentation concerning the former is available upon application in person or in writing from the Department of State. A research and copying fee is imposed. Documentation concerning military service is available from the Department of Veterans' Affairs under the same constraints.

Election results information and documentation relating to the conduct of an election (including required financial disclosures by candidates) are public information at all levels. At the national level, the Federal Elections Commission maintains this information. Information is not available electronically. A request for access to desired information must be made in person or in writing. A research and copying fee is imposed. State election commissions generally follow the Federal model.

At the state and local levels of government, the nature and amount of certain taxes levied is public information. Education information, such as state aggregated (but generally not individual) test scores, school population, and rates of dropout and truancy, may be treated as a matter of public record depending on the jurisdiction involved. The availability of information on-line and the application for copies of such information is subject to the method and constraints imposed by the local jurisdiction as previously described.

The National Archives and Records Administration maintains historical information that is considered to be in the nature of public records, including historical census information, immigration information, documentation pertaining to the activities of the United States government, etc. Current and historical information is available on-line and through various subscription search vehicles. Requests for copies of actual documents must be made in person or in writing. A research and copying fee may be imposed. States maintain similar repositories for records legislatively mandated to be permanent.