

Tax Information Authority



CAYMAN ISLANDS

EXPLANATORY MEMORANDUM

FOR

GUIDANCE NOTES ON THE REPORTING OF SAVINGS INCOME INFORMATION REQUIREMENTS IN THE CAYMAN ISLANDS

VERSION 2.0 - NOVEMBER 2006

This Explanatory Memorandum accompanies Version 2.0 of the Guidance Notes (GN) and is designed to highlight significant changes from Version 1.0 (issued in July 2005). A large number of stylistic changes have been made throughout the GN with the intention of making the whole document more consistent in all its parts. Many of these changes are not identified in this Explanatory Memorandum as they relate to form rather than substance.

There has been some re-arrangement of material in Version 2.0, with consequential changes to paragraph numbering. All cross-referencing has been altered accordingly and this Explanatory Memorandum follows the new numbering.

Guidance Notes – Version 2.0

Front page

- This has been updated to show the new physical address of the Authority, postal code and website details.

Section I

- **GN 1** now reflects the fact that regulations have been made and includes links to the Law and Regulations on the Tax Information Authority website www.tia.gov.ky .

- **Former GN 9 – 13** contained material relating primarily to the underlying bi-lateral Agreements, rather than guidance. They have been deleted. Also in this section, and throughout the GN, the language has been modified where necessary to refer to the regulations or reporting requirements as implemented by the Cayman Islands rather than to the Agreements.

Section II

- **GN 14** has been shortened and reformatted in response to various comments as to its practical use. Its substance remains largely the same.

Section III

- **Section III** has had some substantial amendment to remove repetitive material and reorganise other material. Language has also been altered to more accurately reflect the Cayman Islands' regulations.

Much of the former concluding “summary” part of Section III has either been deleted as repetitive or unnecessary, or the material has been moved to other parts of Section III. The revised format is intended to represent more of a genuine “summary”.

- **GN 21, 23 & 24** have been re-arranged into a more consistent sequence. There is no change in substance from the previous GN.
- **GN 22** was previously at the end of Section III as the former GN 31.
- **GN 26** is new. It relates to structured products and derives from paragraph 92A of the revised United Kingdom Guidance Notes (version 5.0) (“UKGN5”).
- **GN 31** has been re-worded and reflects paragraph 101 of UKGN5.
- **GN 34** has a corrected reference in sub-head (c) to Schedule 1 of the regulations. Also, a new sentence about treatment of funds has been added to the end of this GN.
- **GN 39** was formerly GN 44 and has been moved and amended for reasons of context and clarity.
- **GN 40 & 41** are new. They relate to accumulations and distributions and are derived from UKGN5 paragraphs 115 *et seq.*
- **GN 49** is new. It provides guidance on threshold calculations and is derived from UKGN5 paragraph 122A.
- **GN 50 & 51** were formerly GN 72 & 73 and have been moved and amended for reasons of context and clarity.

Section IV

- **Former GN 82 & 89**, which were part of this Section, have been deleted as out of context and unnecessary.
- **GN 66** was formerly GN 83 and has been modified to remove unnecessary language. Also, the former sub-paragraph 5 has been removed to bring the GN into line with the UK position that remittance of savings income to an EU Member State, or the lack of such remittance, is NOT a determining factor in applying the reporting requirements.
- **GN 67** has an added sentence clarifying that the term *residual entity* does not include a partnership established in the Cayman Islands.
- **GN 81** is a new and has been inserted in response to some practical questions from *agents* regarding distributions by trustees of discretionary trusts.

Section V

- **GN 113** was formerly GN 130 and has been modified to co-ordinate with related material in GN 138 (formerly GN 156) regarding individuals who move their permanent address during the reporting year.

Section VI

- **GN 168 – 171** (formerly 186-189) have been modified to reflect that reporting is no longer in year 1, and to clarify the advance notification requirement.
- **GN 172** is new. It deals with the standard forms of Savings Income Reports.
- **GN 174** is new and deals with the *de minimis* rule for currency amounts now adopted in the EU.
- **GN 175** is new and mirrors the position in UKGN5 and local practice.
- **GN 177** has been modified to make it consistent with GN 81.
- **GN 179** is new. It relates to joint accounts and reflects local practice during the first reporting period.
- **GN 180-183** have been changed and expanded to include the previous material (adapted from the former GN 198) along with material from UKGN5 paragraphs 234 *et seq.*
- **Former GN 193-195** have been deleted and the content moved to more appropriate places in the GN (new GN 77 *et seq*)

Section IX

- **Former Section IX** has been deleted. A full list of entities, including those listed in former Section IX, is in the Annex to the Master Agreement which is scheduled to the Law.

Appendices

- **Appendices 1 & 2:** links are provided to pdf files of the Law and regulations.
- **Appendices 4 & 6:** the application forms now show the new address of the Authority.
- **Appendix 6:** the application form has been modified to allow greater flexibility as to what evidence is to be produced in an application. (See also GN 152).
- **Appendix 8:** this appendix is new and comprises the standard forms of Savings Income Report. The forms are unchanged from those currently in use but were not previously part of the GN. See GN 172.
- **Appendix 9:** this appendix is also new and comprises the *Notes on Completion of Savings Income Reports* which were previously not part of the GN. Apart from some alterations to reflect the fact that the first reporting year has passed, and changes to the Authority's address details, the Notes remain as previously issued. (See also GN 172.)