

Exchange of Information Working Manual

Investment Climate | World Bank Group



**International
Finance Corporation**
World Bank Group



THE WORLD BANK



**Multilateral Investment
Guarantee Agency**
World Bank Group

**Global Forum on Transparency
and Exchange of Information for Tax Purposes**



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EOI Work Manual

Preface

This Manual has been developed as a guide to the internal processes and procedures within the Exchange of Information (EOI) Unit of a tax administration, in so far as they concern exchange of information on request and spontaneous exchanges of information. The intention is that tax administrations new to exchange of information can adapt it for use. Suggestions for adaptation are shown in square brackets – [like this]. A tax administration which already has such a document for its EOI Unit may find it useful to review their current practice in light of the contents of this Manual.

The Manual focuses on the sequential tasks that make up the EOI process as well as the roles of those who perform them. Communications and delivery of documents can add time delays and, where possible, these can be reduced by use of electronic means for sending information and by use of telephone and e-mail for checking on progress. The Manual also sets out management information which can be collected and reviewed to ensure continuous improvement. Clarity about the roles, the processes and performance measures all help to ensure an effective implementation of EOI.

The Manual provides an outline of a generic database that has been constructed to track cases and monitor performance. This database which has been developed by the World Bank Group and the Global Forum is available on a CD ROM for the use of member jurisdictions. In some jurisdictions the volume of EOI cases may be so low that tracking of cases can be carried out using traditional paper based techniques, namely a register book and a diary. The Manual can also be used in these situations.

The Manual also provides checklists for use by EOI staff and a range of template letters to deal with the main communications that EOI Units engage in both internally and with treaty partners.

Background information and a detailed consideration of the key concepts of exchange of information can be found in the OECD Manual on the Implementation of Exchange of Information Provisions for Tax Purposes (see: www.oecd.org/tax/exchange-of-tax-information) and in Implementing the Tax Transparency Standards A Handbook for Assessors and Jurisdictions published by the Global Forum on Transparency and Exchange of Information for Tax Purposes (see: <http://www.oecd.org/tax/transparency/implementingthetaxtransparencystandardsahandbookforassessorsandjurisdictions-secondedition.htm>).

EOI Work Manual

Introduction

The EOI Unit is responsible for carrying out exchanges of information with other tax administrations in accordance with the exchange of information provisions in the relevant international legal instruments. These instruments are Double Taxation Agreements (DTAs), Tax Information Exchange Agreements (TIEAs) and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. [Add other instruments, e.g. regional arrangements, where appropriate.] Exchange of information is a key element in international cooperation and is important in ensuring the correct allocation of taxing rights between States and ensuring that States can enforce their own tax laws. The EOI Unit plays a strategic role for the tax administration in exercising its international rights and obligations. Effective exchange of information depends on the good communication and coordination between the EOI Unit and auditors, investigators and other tax officials in local and specialist offices. The work of the EOI Unit also contributes to implementing the tax administration's policies on tax compliance.

Purpose of the Manual

The purpose of this Manual is to provide guidance on carrying out the tasks involved in exchange of information and to clarify the various roles and responsibilities so that exchanges are carried out swiftly and effectively, while respecting the requirement for confidentiality of the information exchanged. This Manual can be used as a template to develop one tailored for your specific jurisdiction.

Roles

Competent Authority

The competent authority is responsible for the effective implementation of the provisions of Double Taxation Agreements and other international taxation instruments. In particular, the competent authority is responsible for the communications with the treaty partner and for maintaining effective working relationships with competent authorities in other countries.

Exchange of information can only take place between competent authorities or their authorised representatives. This ensures that the rules applicable to exchange of information (and, in particular, the confidentiality of information exchanged) are respected and consistently applied.

There may be a delegation of competent authority for different functions (*e.g.* MAPs or EOI). In other States, the competent authority (Minister of Finance or Commissioner) will typically designate representatives who will have the authority to exchange information. This will generally be done by an official letter or order addressed by the competent authority to the designated representative.

[In adapting this for your country, you will want to add text here to describe who the competent authority is, which individuals have delegated competent authority powers, how delegations are made and updated and, if relevant, the extent of the delegation, e.g. in respect of the Mutual Agreement Procedure]

EOI Manager

The Manager of the EOI Unit is responsible for managing the exchange of information processes and for monitoring the quality and efficiency and effectiveness of the Unit. The Manager will make an annual report on the effectiveness of the Unit with proposals for improvement. The EOI manager may process some of the EOI cases personally and, in such cases, takes on the appropriate responsibilities of the EOI Officer.

EOI Officer

The EOI Officer is responsible for checking and logging requests received and sent and for researching and obtaining information.

Field Officer

The field officer is a tax auditor or examiner who may initiate a request for information through the EOI Unit. For incoming requests, the field officer may be tasked by the EOI Unit to obtain information for a treaty partner.

[In some administrations some of these roles may be combined under the responsibility of one person or the EOI role may represent only a part of a particular officer's duties. Other roles may be added such as the mail clerk who would have duties related to opening the post and date stamping requests as well as applying confidentiality stamps to outgoing responses. Similarly the role of mail clerk may be carried out by an EOI Officer or by a clerk with wider mail handling duties.]

Contents

The Manual contains the following chapters:

- Chapter 1: Covers the procedures to be undertaken to deal with outgoing and incoming EOI requests and with spontaneous exchanges;
- Chapter 2: Concerns the EOI Database System;
- Chapter 3: Sets out how to gather information from systems within the tax administration and from third parties including other government agencies;
- Chapter 4: Concerns the accessing of bank information;
- Chapter 5: Covers the procedures to be undertaken to deal with spontaneous exchanges of information;
- Chapter 6: Covers confidentiality;
- Chapter 7: Contains useful contacts;
- Chapter 8: Contains sources of ownership and accounting information;
- Appendix 1: Contains a list of foreign competent authorities;
- Appendix 2: Contains a checklist of what to include in a request;
- Appendix 3: Contains a checklist of what to include in a response;
- Appendix 4: Contains model templates for EOI.

CHAPTER 1 – OUTGOING AND INCOMING REQUESTS

1.1. Types of Information

A tax official may, in the course of an examination or audit, need information which has not been provided by the taxpayer or their agent and which does not appear to be available within the country. The information may be available in the country of a treaty partner.

This information can help to ensure that the terms of the treaty are correctly applied. For example, credit can be given for tax paid abroad against tax due in this country on the same income. This may be where a withholding tax has correctly been levied in the other country on certain dividend income. Information can also be used to make tax assessments and to detect and counter cases of avoidance and evasion.

Information which is requested from a treaty partner must be “foreseeably relevant” to the tax affairs being examined. The term “foreseeably relevant”, currently used in Article 26 of the OECD Model Tax Convention is intended to provide for information to be exchanged to the widest possible extent, but excludes “fishing expeditions” or requests that are unlikely to be relevant to the tax affairs of a given taxpayer. It covers information in respect of all persons (*e.g.* not limited to persons that are resident in either contracting state or nationals thereof), in both civil tax matters and criminal tax matters, such as tax fraud and evasion. The obligation to exchange information that is “foreseeably relevant” pursuant to a treaty is mandatory. Older treaties often use the word “necessary” for “foreseeably relevant” and these terms are considered equivalent. [Notes should be added to indicate where the wording in any treaty is more restrictive.]

The information requested may relate to taxpayers, whether individuals and/or companies and it may be directly available within the tax administration (information on the tax return, amount of taxes paid, etc.). If not already held, it may be held by a third party (for example, the taxpayer, an employer or a financial institution).

Common types of information may include:

- Tax paid abroad
- Residence status
- Property owned or used
- Income and expenses
- Bank account balances and transactions
- Directors and shareholders of companies
- Company registration
- Accounts including business records and invoices

1.2 Outgoing Requests: making a request to a treaty partner

Introduction

The tax administration may need information from foreign competent authorities to apply our tax laws correctly and ensure taxpayer compliance. We can request such information from foreign tax administrations where there is in force a legal instrument for exchange of information, such as a DTA or the Multilateral Convention on Mutual Administrative Assistance.

Local tax auditors are not entitled to request information from, or exchange information directly with, their foreign counterparts. This would be illegal under national legislation and a breach of the EOI provisions of our DTAs and TIEAs. All requests for information from treaty partners must be made by the competent authority and must be channelled through the EOI Unit. The following procedures should be adopted in all cases where we make a request to another State for tax information.

Before making a request for information from another country, we are expected under the terms of our treaties to use all means available in our own jurisdiction to obtain the information, except in the rare cases where those would give rise to disproportionate difficulties.

Procedures to be followed when making a request to a treaty partner

These procedures mirror those which apply in the case of an incoming request.

Step 1: Logging the request

- All requests for information to a foreign tax administration are to be addressed to the office of the competent authority, marked for the attention of the EOI Manager.
- When such a request is received in the office, it should be delivered directly to the EOI Unit on the day it is received. The officer opening the request should stamp it with the date of receipt and pass it immediately to the EOI Unit Manager.
- The EOI Unit Manager should create a new record of the request on the EOI database system and insert the details of the case (i.e. case name, date the case was received, requested State and include details of the type of information request etc.). (See description of EOI database at Chapter 2.) **[Where there is no database, the case details should be entered into the case register.]**
- An acknowledgement letter (or e-mail) should then be sent to the auditor/office initiating the request.

Step 2: Validating the request

- The EOI Unit Manager will conduct a preliminary examination to see if the request is valid by verifying:
 - if an EOI arrangement exists with the requested State;
 - if the request should be sent to a different jurisdiction;
 - if the request deals with periods or taxes which are covered by the DTA or TIEA;
 - if the request has been approved by the officer's manager;
 - if the information provided is sufficient and the request is clear, and specific;
 - if the auditor has used all possible means available to obtain the information; and
 - if the information is "necessary" or "foreseeably relevant".
- If no EOI agreement exists with the jurisdiction from which information is requested or if the request deals with periods or taxes which are not covered by the DTA or TIEA, the requesting auditor/office should be notified in writing and the case closed.
- The EOI Unit Manager will allocate the case to an EOI Officer and record this on the database.

Step 3: Working the request

- The EOI officer will open a (hard copy) file for the request using the filing reference generated by the EOI database **[or a sequential reference number in the manual system].**

- Once the file has been opened it should be stored in the ‘open case out’ folder in the secure filing range.
- If the information provided is insufficient, the requestor should be informed in writing and requested to provide additional details to allow the request to be sent.
- If all the requirements to request information are met, the EOI Officer should prepare the information request letter to the foreign competent authority ensuring that the request is addressed to the Competent Authority of the other jurisdiction [and to whoever else was designated under a Memorandum of Understanding¹.] All supporting documents should be attached and the request then passed for checking by the EOI Unit Manager before forwarding to the competent authority for signing.
- The letter should advise the requested State if they should not contact the taxpayer or if the matter is particularly urgent.
- The request should be complete and comprehensive and include as much detail as possible. Providing all the relevant facts will enable the foreign competent authority to understand quickly what is needed so the case can be dealt with efficiently. An incomplete request will cause delays. *Appendix 2* provides a *Checklist of what to include in a request*.
- The request and any attachments should be sent by secure traceable mail, e.g. registered letter for tracking and tracing purposes.
- The EOI officer will track progress of the information request. Ask the foreign competent authority for progress reports, quoting the reference number:
 - after 30 days, if an acknowledgement of the request has not been received; or
 - after 90 days, if the information or a status report on the request is not received by then; and
 - at regular intervals thereafter, depending on the circumstances.
- Every time an action is taken on the file, the EOI Officer should update the EOI database and insert an alert for a new review date. [Where a manual system is used, the next action will be recorded in a diary.]
- Signed copies of all correspondence should be kept on the file.

Step 4: Obtaining a response to the request

- Responses received from a foreign competent authority will be addressed to the competent authority and should be delivered directly to the EOI Unit on the day they are received. The mail clerk should stamp the response with the date of receipt and transmit it immediately to the EOI Unit Manager. All responses should be seen and signed by the EOI Unit Manager as a record of receipt.
- The Case Officer should verify the information received against the request sent. If the response is perceived to be incomplete or inadequate, consider whether it is necessary, or possible, to make further enquiries of the treaty partner.
- When the response obtained is found to be complete, an acknowledgement letter should be prepared for signature by the competent authority (see *Appendix 4 – Model Templates for EOI*). Receipt of information should be acknowledged within 7 days.
- The EOI Officer should provide the information to the auditor who requested it. The EOI Officer will prepare a covering letter with a request for feedback to be signed by the EOI Unit Manager (see *Appendix 4 – Model Templates for EOI*)
- Relevant documents should bear a confidentiality stamp to make the auditor aware of the confidential nature of the information and his/her obligations in that respect.

[¹ Such a Memorandum of Understanding is an agreement between competent authorities to clarify the practical aspects of exchanging information. This may indicate specific officers in each jurisdiction for specific types of exchange.]

- In some cases, large amounts of information regarding many taxpayers may be received. Only a portion of that information may be required by a specific auditor in a particular region. The Case Officer is responsible for ensuring that only the specific information needed by the particular auditor is forwarded.
- Once the case has been closed, place it in the 'closed case out' folder in the secure filing range.

1.3 Incoming Requests: receiving a request from a treaty partner

Introduction

The tax administration aims to meet the highest international standards in EOI for tax purposes. For this reason, requests should be dealt with as quickly as possible and clear time lines have been established within which replies are expected to be given to EOI requests from treaty partners. As a general rule:

- Where the information requested is already held by the tax administration (or another government agency), the information should be sent to the requesting State's competent authority within 90 days of the receipt of a request.
- Where the information is not already held by the tax administration, the information should be sent to the requesting State's competent authority within 6 months of receipt of a request

The process of responding to a request for exchange of information can be divided into different steps described below.

Step 1: Logging the request

Step 2: Validating the request

Step 3: Working the request

Step 4: Responding to the request

All of these steps are time sensitive given the requirement to meet the above deadlines.

Step 1: Logging the request

- Mail received from a foreign competent authority will be addressed to the competent authority and should be passed directly to the EOI Section on the day it is received. The officer opening the request should stamp it with the date of receipt and pass it immediately to the EOI Unit Manager. All requests should be seen and signed by the EOI Unit Manager as a record of receipt.
- Upon receipt, all requests and other documents related to an EOI case should be stamped with a clearly visible confidentiality notice (see *Chapter 6 – Confidentiality*).
- The EOI Unit Manager should create a new record of the request on the EOI database and insert the details of the case (*i.e.* case name, date the case was received, foreign reference number, requesting State and include details of the information request, etc.). A case reference number will be allocated.
- Once the new case record has been created, an acknowledgement letter should be prepared for signature and issue by the competent authority (see *Appendix 4 – Model Templates for EOI*). All information requests should be acknowledged within 7 days.
- The acknowledgement letter should advise the requesting State that we will contact the taxpayer concerned directly for the information, if necessary, unless the requesting State has already indicated that it wishes to avoid notifying the taxpayer under examination or investigation.
- If the request has to be translated, this should be done immediately so as to avoid any delays in the case or the requesting State should be asked (within 7 days) if it can provide a translation (see *Chapter 6.4 – Translation*).

Step 2: Validating the request

- All requests will be examined by the EOI Unit Manager on receipt. The request will be returned to the requesting State if:

- it is not covered by an international tax treaty; or
- it deals with periods, or taxes, which are not covered by the international tax treaty; or
- it is not signed by an authorised person from the requesting State (to be checked against the list of competent authorities annexed); or
- the request should have been sent to a different jurisdiction.
- The EOI Unit Manager will also examine the validity and completeness of the request in the light of the relevant treaty requirements, and that the request is clear, specific and relevant.
- If the information provided is insufficient to process the case, then, depending on the circumstances, the competent authority will ask the requesting State, by letter, to provide more details to allow the request to be processed or return the request explaining the reason, *e.g.* not enough information to identify the taxpayer, or the reason for the request is not clear. The EOI Unit Manager will prepare the response for signature by the competent authority.
- Where a request is considered to be invalid or incomplete, the requesting State should be notified of the deficiency within 60 days of receipt of the request. If the request is incomplete in part, the case will be worked to provide information for the part of the request that is valid.
- On completion of the validation, the EOI Unit Manager will allocate the case to an EOI Officer to be worked. The EOI Unit Manager may take responsibility for working some cases, including those which are complex or sensitive.

Step 3: Working the request

- The Case Officer should open a (hard copy) file for the request using the case reference generated by the EOI database. Once the file has been opened, it should be placed in the ‘open case in’ folder in the secure filing range.
- Case Officers should note whether the requesting State has assigned any particular urgency to the request and whether they have asked that the taxpayer not be contacted directly.
- The Case Officer is responsible for gathering the information needed to respond to a request and drafting a response. *Chapter 3 – Gathering Information* provides further guidance.
- Every time an action is taken on the file, update the EOI database and insert an alert for a new review date. **[Where a manual system is used, the next action will be recorded in a diary.]**
- No significant time should pass since an action was last taken on any case; if replies are outstanding a phone call or a reminder should be sent. This ensures that, although a case may be ‘aged’, it is continually being reviewed.
- Retrieve files from the secure filing range only when they are being worked on.
- Keep signed copies of all correspondence on the file.

Step 4: Responding to the request

- Once the information needed to respond to a request has been gathered, the EOI Officer should draft a response to the request, for review by the EOI Unit Manager and for signature by the competent authority. The EOI Officer should ensure that the name and address of the requesting State’s competent authority are correct before passing the letter to the EOI Unit Manager.
- Where it has not been possible, despite best efforts, to obtain the information requested, a response should be prepared to inform the requesting authority, as soon as possible, that the information cannot be provided and the reasons it cannot be provided.
- Appendix 3 provides a Checklist of what to include in a response. Exchanges should not be delayed by seeking to provide every item on the list.

- The requesting State may be obliged, in certain cases, to copy the information that has been provided to the taxpayer being investigated. Replies should be drafted with this in mind.
- Within 90 days of receipt of the request, issue an update (if no information is available), an interim reply (if some information is available) or a final reply (if all information is available). Issue update/interim replies every 90 days until final reply is issued. Use the database alert system to bring the case forward for updates or replies. [Where a manual system is used, the review date will be recorded in a diary.]
- Always state in the first sentence of the reply whether it is an update, interim or final reply.
- Stamp all documentation being sent to the requesting State with an official stamp to the effect that the use and disclosure of all information furnished is governed by the provisions of our DTAs/TIEAs, as appropriate. The covering letter should also state that the information is being exchanged in accordance with the obligations imposed by the relevant legal instrument (see *Appendix 4 - Model Templates for EOI*).
- Keep a signed copy of the reply on the file.
- Regular feedback between competent authorities is important to encourage cooperation and to improve the effectiveness of EOI. For this reason, ask treaty partners to provide an assessment of how useful the information sent to them was when issuing a final reply. Request feedback in the final reply to the other competent authority when the information needed to respond to the request is being provided (see *Appendix 4 - Model Templates for EOI*).
- Once the case has been closed put the file in the 'closed case in' folder in the secure filing range.

CHAPTER 2 – EOI DATABASE SYSTEM

[This chapter would detail the data structure of the database, the procedures for creating and updating records and the types of management reports that can be produced. A generic EOI tracking system and database has been developed by the World Bank Group and the Global Forum and is available on a CD ROM for member jurisdictions.]

2.1 Data contents

The EOI database is a case-tracking system for managing requests and assists the EOI Unit to keep track of progress on information requested. The system captures data in relation to both outgoing and incoming requests.

The database contains the following:

- Reference numbers of both countries for the exchange
- Status of the case (open/closed/reopened)
- Due date for response
- Identity details for each person or entity including name, address, date of birth, and taxpayer identity number
- Dates request was sent and received
- Name of other jurisdiction
- Details of contact in other jurisdiction (name, phone number and e-mail address)
- EOI officer assigned to the exchange
- Summary of the information requested
- Actions taken
- Last action date
- Actions due
- Reminder for next action due
- Summary of information provided
- Date final response issued/received

2.2 Procedure

Information is input to the database when a new request is issued or received, when actions are taken and when the case has been closed.

- The database provides a template for entering the details of the case.
- The database allows the user to input an alert for follow-up tasks to be carried out, e.g. to issue a reminder to a bank when a reply has not been received to a request for information within the deadlines given.

- Whenever an action is taken, the EOI Officer should enter details and also indicate a follow-up action in the “Action Due” field and a date for “Next Action Due”. The database reminds the EOI Officer and the EOI Unit Manager when a task is due so as to avoid missing any deadlines.
- The system generates a range of management reports (see examples below):
 - volume of cases opened or closed within a specified period by category (e.g. individual, company, etc.);
 - response time, *i.e.* length of time before a reply (acknowledgement, interim or final) was issued or received in each case and on average ;
 - volume of open cases and age of cases, *e.g.* cases that are under 90 days, between 90 days and 180 days, between 180 days and 360 days, and cases that are over 360 days old;
 - how long since an action was last performed on a case which has not been closed, *i.e.* cases where no action has been taken for > 30 days, > 60 days, > 90 days, >180 days.
 - history of the actions taken within a specified period including type of update, who made it and when it was updated.

Samples of management reports for REQUESTS OUT

EOI Case Age Profile

| Number of days cases open | 2013 / Jul | 2013 / Aug |
|---------------------------|------------|------------|
| 90 days or less | | |
| 91 days to 180 days | | |
| 181 days to 360 days | | |
| >360 days | | |
| Total | | |

EOI Case Response Times

| Date request made | EOI section reference | Requested Treaty Partner | Category | Status of the case | Days to issue Acknowledgement letter | Days to (1st/2nd/3rd) Interim replies | Days to final reply |
|-------------------|-----------------------|--------------------------|----------|--------------------|--------------------------------------|---------------------------------------|---------------------|
| | | | | | | /// | |
| | | | | | | /// | |
| | | | | | | /// | |

Action Log

| When was the update performed | Main person / entity under investigation | EOI section reference number [Jurisdiction's reference] | Who updated | Type | What was updated | Case status |
|-------------------------------|--|---|-------------|------|------------------|-------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

Samples of management reports for REQUESTS IN EOI Case Age Profile

| Number of days cases open | 2013 / Jul | 2013 / Aug |
|---------------------------|------------|------------|
| 0 days or less | | |
| 91 days to 180 days | | |
| 181 days to 360 days | | |
| >360 days | | |
| Total | | |

New EOI Cases opened/closed

| Requests in progress at 01/01/2013 (1) | Requests in Q1/2013 | | Requests in Q2/2013 | | Requests in Q3/2013 | | Requests in Q4/2013 | | Total opened 2013 (2) | Total closed 2013 (3) | Requests in progress at 31/12/2013 (1+2-3) |
|--|---------------------|--------|---------------------|--------|---------------------|--------|---------------------|--------|-----------------------|-----------------------|--|
| | Opened | Closed | Opened | Closed | Opened | Closed | Opened | Closed | | | |
| Company | | | | | | | | | | | |
| Foundation | | | | | | | | | | | |
| Partnership | | | | | | | | | | | |
| Individual | | | | | | | | | | | |
| Other | | | | | | | | | | | |
| Trust | | | | | | | | | | | |
| unspecified category | | | | | | | | | | | |

EOI Case Response Times

| Date request received | EOI section reference | Requesting Treaty Partner | Category | Status of the case | Days to issue Acknowledgement letter | Days to (1st/2nd/3rd) Interim replies | Days to final reply |
|-----------------------|-----------------------|---------------------------|----------|--------------------|--------------------------------------|---------------------------------------|---------------------|
| | | | | | | /// | |
| | | | | | | /// | |
| | | | | | | /// | |

EOI Case Action History

| Number of cases where no action taken within | 2013 / Jul | 2013 / Aug | 2013 / Sep |
|--|------------|------------|------------|
| Last 180 days | | | |
| Last 90 days | | | |
| Last 60 days | | | |
| Last 30 days | | | |

Action Log

| When was the update performed | Main person / entity under investigation | EOI section reference number [Jurisdiction's reference] | Who updated | Type | What was updated | Case status |
|-------------------------------|--|---|-------------|------|------------------|-------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

CHAPTER 3 – GATHERING INFORMATION²

Introduction

Incoming requests are allocated by the EOI Unit Manager to one of the EOI Officers in the Unit. The EOI Officer to whom the case is allocated is responsible for researching, obtaining and collating the information requested.

This Chapter provides guidance on how to collect information in order to respond to a request for exchange of information and what to include in a response. The work to respond to a request should be carried out, as far as possible, within the EOI Section, using access to departmental tax systems. However, it will often be necessary to involve other offices within the tax administration or other government agencies or other information holders. The guidelines on confidentiality (described in *Chapter 6 – Confidentiality*) must be followed in any case where it is necessary to contact another unit of the tax administration or another information holder to gather information.

[Where a jurisdiction has in place a system of agreements (Memoranda of Understanding) for the access to information between government agencies and the tax administration the content of these should be reflected here. For example a Memorandum of Understanding may set out the method of access to information and the agreed response times. Where this is the case the Manual should provide a list of the agencies concerned.]

The tax administration has agreements in place with some Government agencies for access to information. A Memorandum of Understanding with each agency sets out the method of access to information and the agreed response times. These agencies are: [provide a list]. These ensure that whenever the EOI Unit needs information from one of the agencies, it will be provided in a timely manner.

3.1 Procedures to gather information

- To the extent possible, officials should search for the information requested on the tax administration's own systems. These include:
 - [Provide a list].
- Where the case is one that the EOI Unit can respond to without the need to refer to another area of the tax administration, the case will be passed to one of the Case Officers to draft a response.
- Where it is necessary to contact a local or regional office or a specialised tax office such as [provide a list], a letter should be prepared for signature and issue by the EOI Unit Manager, requesting the assistance of that office in obtaining the information required. Set a date (within 4 weeks from the date of the letter) for the reply and set an alert in the EOI database diary [or diary where a manual system is used] for follow-up. See *Appendix 4 – Model Templates for EOI* for a sample letter of request to the local office.
- Where it is necessary to contact a third party or another Government agency, draft a letter to the third party or agency concerned, for signature and issue by the EOI Unit Manager. Set a date (within 4 weeks from the

² [Some jurisdictions have special arrangements or powers for obtaining bank information. This may involve obtaining authorisation by a commissioner or a tribunal. A separate chapter has therefore been prepared for use in those jurisdictions – see Chapter 4.]

date of the letter) for the third party or agency to reply. See *Appendix 4 – Model Templates for EOI* for a sample letters of request.

- Put a signed copy of the letter on file.
- If the person concerned has not replied within the specified time, make further contact (preferably by phone) with that person to find out why there is a delay. Give a further short period (less than 30 days) to respond. If that further period elapses without a full response, review the request with the EOI Unit Manager to decide the next action to take.
- The EOI database should be updated when the requested information and documentation is received. All documentation should be checked by the EOI Officer to make sure it corresponds to the request.
- Where information is provided by a local or specialised tax office or by other government agency, an acknowledgement letter should be sent, thanking the person that provided the information for their assistance.
- The EOI Officer will prepare the response to the request (see Chapter 2). Appendix 3 provides a checklist of what to include in a response (although exchanges should not be delayed by seeking to provide every item on the list).
- Stamp all documentation being sent to the requesting State with an official stamp stating: “THIS INFORMATION IS FURNISHED UNDER THE PROVISIONS OF A TAX TREATY AND ITS USE AND DISCLOSURE ARE GOVERNED BY THE PROVISIONS OF SUCH TAX TREATY.” The covering letter should also state that the information is being exchanged in accordance with the provisions of the relevant legal instrument.
- Put a photocopy of the (signed) reply on the file.

CHAPTER 4 – BANKING INFORMATION

Introduction

Banks and financial institutions are required by law to provide information that may be required by the tax administration, including information to fulfil a request under the terms of an international tax treaty. [Add details of the information powers available]

4.1 Procedures to gather banking information

- The EOI Unit Manager should check that sufficient information has been received to identify the account holder and the bank or financial institution (hereafter bank). If the request is incomplete, call or send an e-mail immediately to the foreign competent authority asking for the missing information.
- Having checked the request, the EOI Manager should allocate the request to an EOI Officer, who will prepare the request to the bank. [Procedures to access bank information vary between jurisdictions. The steps set out below may need to be adapted. Where time limits are mentioned jurisdictions will want to set limits which reflect the priority that needs to be given to requests.]
- Formal requests to banks need to be approved and signed by (a Commissioner). Prepare a letter addressed to the bank concerned for signature by (a Commissioner) requesting the necessary information. See *Appendix 4 – Model Templates for EOI* for a sample letter.
- The letter allows the bank [15 days] from the date of receipt of the letter to provide the requested information or to explain why it is unable to do so. The EOI Officer should allow [3 days] for delivery of the letter and set an alert for a review date for [15 days] later in the EOI database. [Where a manual system is used, the review date will be recorded in a diary.]
- If the information has not been received within the specified deadline, The EOI officer should follow up immediately with the bank by phone call or e-mail.
- If a bank needs additional time within which to submit information, it can request an extension, which should not be more than [30 days] from the date of receipt of the original notice. When this happens, an alert for a new review date should be inserted in the EOI database [or recorded in a diary] to reflect the extension. The EOI Officer should also contact the bank to explain that a (subpoena or summons) will be issued if a reply is not received before the specified deadline.
- If the bank does not reply to a request within the period specified, a subpoena or summons should be prepared by the EOI Manager, to be signed by (a Commissioner), and then delivered to the bank by registered mail. An alert for a new review date should be inserted into the database [or recorded in a diary] to reflect the deadline in the subpoena.
- If the bank fails to comply with the subpoena or summons, the matter should be referred to the Legal Division. The EOI Unit Manager should prepare the papers for submission to the Legal Division. At the same time, the requesting State should be notified that the bank has failed to provide the information requested and that the matter has been referred to the Legal Division for enforcement action.

- When the information is received from the bank, the EOI Officer should stamp the documents with the confidentiality stamp and prepare a letter of response for signature by the competent authority. See *Appendix 4 – Model Templates for EOI* for a sample letter.

CHAPTER 5 – SPONTANEOUS EOI

Introduction

DTAs and the Multilateral Convention provide for the spontaneous exchange of information, but TIEAs usually do not. Spontaneous exchanges are particularly valuable in uncovering specific cases of tax evasion. The opportunity for providing spontaneous information usually arises when an auditor or investigator comes across details of income or a transaction that appears to be taxable in another country but where the tax due may not have been paid. This allows treaty partners to discover tax evasion in specific cases, as well as general tax evasion schemes. Instances of double non-taxation may also be uncovered in this way.

Spontaneous exchange may occur where:

- There are grounds for suspecting that there may be a significant tax loss by the treaty partner.
- A person liable to tax obtains a reduction in, or an exemption from, tax in one State which would give rise to an increase in tax or to liability to tax in the other State.
- Business dealings between a person liable to tax in one State and a person liable to tax in the other State are conducted through one or more States in such a way that a loss of tax may result in one of the States, or in both.
- There are grounds for supposing that a loss of tax may result from artificial transfers of profits within groups of enterprises.

5.1 Sending information spontaneously

Where information is received from a local or specialist tax office for a spontaneous exchange to another State, the following procedures apply:

- All spontaneous exchanges of information to a foreign tax administration should be channelled through the office of the competent authority, marked for the attention of the EOI Manager.
- When the proposed spontaneous exchange is received in the office, it should be delivered directly to the EOI Unit on the day it is received. The officer receiving the proposal should stamp it with the date of receipt and pass it immediately to the EOI Unit Manager.
- The EOI Unit Manager should create a new record for the exchange on the EOI database and insert the details of the case (i.e. case name, date the case was received, State involved and include details of the type of information, identifying the exchange as spontaneous etc.). (*see description of EOI database at Chapter 2.*)
- The EOI Unit Manager should conduct a preliminary examination to see if exchange is valid by verifying if an appropriate EOI arrangement exists with the requested State. Where there is no tax information agreement in place, but the matter pertains to possible criminal activity, consideration should be given to exchange under a Mutual Legal Assistance Treaty, if one exists. If no agreement exists with the State to which information would be sent, the auditor proposing the exchange should be notified in writing and the case closed.
- The information should be reviewed to consider whether it may be useful to the other foreign competent authority and to ensure that the information is as complete as possible, so that the taxpayers involved can be identified and the nature of any tax evasion scheme can be understood.

- An acknowledgement letter (or e-mail) or request for more information should then be sent to the auditor/office initiating the exchange.
- The following points should be mentioned in the exchange:
 - The nature of the information that was gathered.
 - All relevant facts, so that the foreign competent authority that receives the exchange can deal with the exchange efficiently.
 - An explanation as to why the information is thought to be of interest to the other competent authority.
 - Details of how the information was obtained.
 - The source of the information provided, *e.g.* tax return, third party information etc.
- Ask the foreign competent authority to provide feedback on the usefulness of the information provided to help improve future exchanges (*see Appendix 4 – Model Templates for EOI*).
- Stamp all documentation being sent to the receiving State with an official stamp to the effect that the use and disclosure of all information furnished is governed by the provisions of our DTAs/TIEAs etc. The covering letter should also state that the information is being exchanged in accordance with the terms of the relevant DTA.

5.2 Receiving spontaneous exchange

The procedures for handling an incoming spontaneous exchange are as follows:

- Mail received from a foreign competent authority will be addressed to the competent authority and should be passed directly to the EOI Section on the day it is received. The officer receiving the letter should stamp it with the date of receipt and pass it immediately to the EOI Unit Manager.
- The EOI Unit Manager should create a new record for the spontaneous exchange in the EOI database [or register if the system is manual] and insert the details of the case (*i.e.* case name, date the case was received, foreign reference number, State sending the information, details of the information received, etc.). A case reference number should be allocated.
- Once the new case record has been created, an acknowledgement letter should be prepared for signature and issue by the competent authority (*see Appendix 4 – Model Templates for EOI*). All information exchanges received should be acknowledged within 7 days.
- The information received should have a confidentiality stamp from the treaty partner on each page. If this is not the case, then a confidentiality stamp should be applied (*see Chapter 6 Confidentiality*.)
- When the information is received, a first check on the potential usefulness should be performed by the EOI Unit Manager:
 - Information may reveal a tax loophole requiring a review of policy and legislation. Information provided to policy divisions should first be anonymised.
 - Information may be case-specific, in which case the information may be forwarded to the auditor in charge of the taxpayer involved.
- When transmitting the information to the relevant auditor, make sure that the information sent is only that which the specific auditor requires. The EOI Officer is responsible for ensuring that only the specific information needed by the particular auditor is forwarded. Bulk information should not be forwarded.
- Ask the auditor (or the policy division) to provide feedback on the usefulness of the information. Such feedback may include details on the additional tax revenue raised and tax evasion methods detected. The feedback should be sent to the foreign competent authority that provided the information, as this will improve the quality of future information exchanges.

CHAPTER 6 – CONFIDENTIALITY

Introduction

Taxpayer information is confidential and our legislation [insert reference] restricts government officials from disclosing such information except in certain circumstances. This restriction also applies to information received under treaty provisions. The confidentiality provisions contained in DTAs and other legal instruments for EOI also create obligations under international law. The provisions apply to information received in response to a request and also to information contained in correspondence between competent authorities, including in the letter of request. At the same time, it is understood that a requested State can disclose the minimum information necessary contained in a competent authority letter (but not the letter itself) for the requested State to be able to obtain the requested information and provide it to the requesting State. When requesting information from third parties or other government agencies, only the information needed to take action on the request should be provided. If an EOI Officer is in doubt as to what information should be contained in the letter to the outside agency, s/he should consult the EOI Unit Manager.

Information, received under the provisions of a treaty, will be treated as secret in the same manner as information obtained under domestic law and in line with the requirements of the treaty. Improper disclosure may damage the country's international reputation and affect future exchange of information with treaty partners. Improper disclosure is punished by severe administrative, and possibly criminal, penalties.

6.1 General procedures applying to access to electronic and physical records

- All of the information received in the EOI Section is confidential and should be stored securely. EOI Unit files containing taxpayer information must be stored in secure storage units and only retrieved by the EOI Unit Manager or the EOI Officer assigned to them (or a nominated replacement officer) when they are being worked on.
- Access to passwords, combinations and keys is restricted to officers working in the EOI Unit.
- Only EOI Unit staff should have access, by individual login and password, to the EOI Database
- Hard copies of incoming information should only be made by the EOI Section, if strictly necessary, for example, when documents must be forwarded to other areas of the tax administration. The same security level should apply to the hard copies as to the original documents. Any hard copies should be disposed of in a secure manner (*e.g.* by using a shredder) when no longer needed.
- Under no circumstances, should members of the public be allowed entry to the EOI Unit's office area. Other tax office staff should not enter the EOI Unit's office area without the EOI Unit Manager's permission.

6.2 Sending information to a foreign competent authority

- Before sending information to a foreign competent authority the EOI Unit Manager should check:
 - that the person who has requested the information was authorised to make the request and to receive the information.
 - the foreign competent authority's name and address are correct.
- All confidential information should be clearly labelled (see 6.5 below "Confidentiality stamp").
- Physical mail should only be sent via an international registration system where a mail tracking function is in place.
- Any mail received from foreign competent authorities should be delivered directly to the EOI Section and stored in secure storage units.
- The cover letter to the foreign competent authority should emphasise the confidentiality of the information by including the following statement: "This information is furnished under the provisions of a tax treaty and its use and disclosure are governed by the provisions of such tax treaty."
- Exchange of tax information can only take place between competent authorities or their authorised representatives. All letters containing taxpayer information must, therefore, be signed by the competent authority or the delegated officials **[specify the officials if any]**.
- Exchanges of taxpayer information can be made by letter, or by e-mail; often this is predetermined between jurisdictions in a treaty or a Memorandum of Understanding. Exchange by e-mail requires that the information is encrypted or sent via a secure platform (that is, it cannot be accessed by unauthorised users). In such cases, both competent authorities need to have the facilities to do this. Where e-mail correspondence without encryption is sent or received relating to a request, e.g. where clarification is requested by a treaty partner, the content of the e-mail and any e-mail response must always be anonymised.

6.3 Competent authority sending information to other areas of the tax administration

The EOI Unit will often need to send confidential information to other tax officials within the tax administration. The following procedures should be followed in these cases:

- A record should be kept on file showing to whom the information has been disclosed, how many copies have been produced and who has a copy in their possession at any time.
- On occasion, a large quantity of information regarding many taxpayers may be received. Normally, only a portion of that information is required by a specific auditor. The EOI Unit is responsible for ensuring that only the specific information needed by the particular auditor is forwarded.
- When the EOI Unit forwards confidential information to other areas of the tax administration, it should make clear to the person receiving that the information is treaty-protected confidential information. The cover letter (or e-mail in case of electronic mail) should state that the information must be kept confidential, that the documents must be stored in a secure place and that copies of the material should not be made (nor should e-mails containing the information be forwarded) without consent of the EOI Unit. See *Appendix 4 – Model Templates for EOI* for a sample notification letter.

6.4 Translation

- Agreements with treaty partners (or accompanying MOUs) may specify the language to be used in exchange of information correspondence. In such cases the EOI Unit should organise the translation into the specified language, as required by the agreement. Where it is necessary for a document to be translated and the EOI Unit is not able to do this, they may use the services of a translator who is subject to the same confidentiality obligations as the EOI Unit staff.
- Where information is received from a foreign competent authority, which cannot be translated within the resources available to the EOI Unit, it should be returned directly to that competent authority with a request that it be translated into a common language with an explanation that the EOI Unit does not have the facilities to undertake its own translation.
- The document should not be sent for translation to a local embassy or any other government agency of the other State.

6.5 Confidentiality stamp

- All documents related to an exchange of information case should bear a clearly visible confidentiality stamp. This can be an actual stamp stating: “THIS INFORMATION IS FURNISHED UNDER THE PROVISIONS OF A TAX TREATY AND ITS USE AND DISCLOSURE ARE GOVERNED BY THE PROVISIONS OF SUCH TAX TREATY.”.
- In electronic documents, this text should be embedded as a header and/or watermark.

6.6 Disclosure in certain specific circumstances

- In certain narrow circumstances, confidential information received from a treaty partner may be disclosed to persons outside the tax administration, for example, to the taxpayer concerned or in public court proceedings. Information contained in the letter of request cannot be disclosed (see section 6.7 below). Such disclosures may occur when information received is used to support a charge to tax and this is communicated to the taxpayer or when a case against the taxpayer is considered by a court and the information is required by the judicial authorities.
- Disclosure rules may vary under the different legal instruments. Any disclosure outside the tax administration should be authorised by the EOI Unit Manager, having checked that such disclosure is allowed under the legal instrument and domestic legislation.
- The foreign competent authority should be informed of the disclosure to persons outside the tax administration.

6.7 Notification to Taxpayer

- The tax administration does not notify a taxpayer that it has received a request to exchange information, except in certain cases. **[Specify the exceptional cases]** Even where an exception may apply, the taxpayer should not be notified when the requesting competent authority has specified that they should not be informed. **[Some tax administrations do notify taxpayers unless specifically asked not to do so – and this policy would need to be reflected here.]**
- Where the information required is held by a taxpayer, they should be asked to provide the information and the letter should provide only the minimum amount of information needed to allow the taxpayer to respond to the request. On no account should the letter of request from the foreign competent authority be provided. (See *Appendix 4 – Model Templates for EOI for a sample letter*).

6.8 Competent Authority Meetings

- Communication between competent authorities may be conducted in a number of ways, such as letters, fax, e-mail, telephone, and face-to-face meetings. In practice, competent authorities determine which means of communication is best on a case-by-case basis.
- Whatever means of communication is adopted, it is critical that the guidance provided in this Manual is followed wherever taxpayer information is being communicated.
- As exchange of information can only take place between competent authorities, by extension, in the case of face-to-face meetings with the foreign competent authority of the other State where taxpayer information is being exchanged, the competent authority or an official with delegated competent authority must be present in the meeting.

CHAPTER 7 – USEFUL CONTACTS

- A. A list of officials with Competent Authority status for tax treaty partners is updated quarterly. This is at *Appendix 1 – List of foreign competent authorities*).
- B. A list of contacts for exchange of tax information within regional offices and specialist offices is provided below:
[Add list of contacts]
- C. For information held by government agencies, the contact persons are as follows:
[Complete list of contacts]
- D. For Bank Information
[Add contact details]

| Name | Website | Address and Contact Details |
|---|---------|-----------------------------|
| Securities and Exchange Commission | | |
| Company Registry | | |
| Land Registry | | |
| Department Of Social Security | | |
| Customs | | |
| Department Of Industry | | |
| | | |

ABBREVIATIONS

DTA – Double Taxation Agreement

EOI – Exchange of Information

MAP – Mutual Agreement Procedures

TIEA – Tax Information Exchange Agreement

TIN – Tax Identification Number

[Add other abbreviations introduced into the Manual e.g. for other government agencies or sections of the tax administration]

APPENDIX 1 – LIST OF FOREIGN COMPETENT AUTHORITIES

Appendix 2 – Checklist of what to include in a request

- Reference number of the request
- Reference to the legal basis upon which the request is based (DTA, TIEA or Multilateral Convention).
- A statement confirming that the tax administration has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
- A statement that the request is in conformity with the laws and administrative practices of the country, that the tax administration could obtain the information if it was within the country and that the request is in conformity with the legal instrument on which it is based (this is mandatory if request under a TIEA, optional otherwise).
- The identity of the person(s) or entity under examination or investigation:
 - full name (first name, family name)
 - date of birth (for individuals)
 - marital status (if relevant)
 - Tax Identification Number (TIN)
 - full address (including e-mail or internet addresses, if known)

NB: In cases where the requesting competent authority does not provide the name or address of the taxpayer, it must include other information sufficient to identify the taxpayer.

- The identity of any foreign taxpayer or entity relevant to the examination or investigation and, to the extent known, their relationship to the person(s) under examination or investigation:
 - name
 - marital status (if relevant)
 - TIN (if known), addresses (including e-mail or internet addresses if known)
 - registration number in the case of a legal entity (if known)
 - charts, diagrams or other documents illustrating the relationships between the persons involved.
- If the information requested involves a payment or transaction via an intermediary, mention the name, addresses and TIN (if known) of the intermediary, including, if known, the name and address of the bank branch as well as the bank account number when bank information is requested.
- Relevant background information, including the tax purpose for which the information is sought, the origin of the enquiry, the reasons for the request and the grounds for believing that the information requested is held in the territory of the requested party, or is in the possession or control of a person within the jurisdiction of the requested party.
- The stage of the procedure in the requesting party, the issues identified and whether the investigation is of a civil or administrative nature only, or may also have criminal consequences. Where references are made to domestic law, it is useful to provide some explanation as the foreign competent authority may not be familiar with these laws.
- The information requested and why it is needed, specifying the documents that may be pertinent (*e.g.* invoices, contracts).
- The taxes concerned.
- The tax periods under examination (day, month, year they begin and end), and the tax periods for which information is requested (if they differ from the years examined, give the reasons why; for instance, if there is a loss carryover, or the information concerns a purchase price for determination of a capital gain).
- The currency concerned, whenever figures are mentioned.
- The urgency of the reply, the reasons for the urgency and, if applicable, the date after which the information may no longer be useful.

- Whether a translation is required (in urgent cases, mentioning that no translation is required could speed up the exchange).
- If copies of documents or bank records are requested, the type of authentication, if any, that is necessary.
- If the information is likely to be used in a court proceeding and the applicable rules of evidence require the information to be in a certain form, the form should be indicated.
- Whether there are reasons for avoiding notifying the taxpayer under examination or investigation (*e.g.* if the notification may endanger the investigation).
- The name, phone, fax number and e-mail address of the tax official who may be contacted if needed, (that person should have delegation of competent authority).

APPENDIX 3 – CHECKLIST OF WHAT TO INCLUDE IN A RESPONSE

While every case may differ on the particular facts and circumstances, the following checklist provides some guidance on what could be included in a response. Note that exchanges should not be delayed by endeavouring to obtain every item on the checklist and that abbreviations should not be used.

- Reference to the legal basis for providing the information (DTA, TIEA or Multilateral Convention).
- The reference number for the request.
- The information requested, including copies of documents (*e.g.* records, contracts, invoices), as well as any information not specifically requested, but likely to be useful based on the information provided in connection with the request.
- Explanation, if applicable, why certain information could not be provided or could not be provided in the form requested.
- For money amounts, state the currency, whether a tax has been withheld and, if so, the rate and amount of tax.
- The type of action taken to gather the information.
- The tax periods for which the information is provided.
- Whether the taxpayer, or a third person, has been notified about the exchange.
- Whether there are any objections to notifying the taxpayer of the receipt of the information.
- Request for feedback on the usefulness of the information.
- A reminder that the information provided is treaty confidential.
- Contact point: name, phone, fax number and e-mail address of the tax official with delegated competent authority who may be contacted.
- Signature of the response by the competent authority or person having delegated competent authority.

APPENDIX 4 – MODEL TEMPLATES FOR EOI

- 1. Model template for an EOI request**
- 2. Acknowledgment letter to the requesting State of receipt of an EOI request**
- 3. Interim 90 Day Reply**
- 4. Letter of request to Local Tax Office to provide information**
- 5. Letter of request to taxpayer/third party to provide information**
- 6. Letter of request for banking information from financial institution**
- 7. Notification letter to Taxpayer where banking information is requested**
- 8. Feedback Form for information provided by Local Tax Office**
- 9. Subpoena to produce a document**
- 10. Final reply letter to requesting State where information to respond to EOI request is provided**
- 11. Acknowledgement letter to requested State from which information has been received**
- 12. Letter to auditor accompanying information received from requested State**
- 13. Acknowledgment letter to the State providing spontaneous information**

Model Template 1

Template for an EOI Request

[This model template was developed by OECD's Working Party 10 as a standard form template for requests for information under TIEAs. Alternatively, where a jurisdiction has developed its own template it may prefer to include it here]

The completed form constitutes a confidential communication between the relevant competent authorities.

| | | | |
|-----------|--|--|---|
| 1. | To: ¹ | | |
| 2. | From: ² | | |
| 3. | Contact point ³ | Name: | |
| | | Email: | |
| | | Telephone: | |
| | | Fax: | |
| | | Language skills: | |
| 4. | Legal Basis: | | |
| 5. | Reference numbers and related matters | Reference number: ⁴ | |
| | | Initial request: | Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, please provide reference number(s) and date(s) of any related request(s): |
| | | Acknowledgement needed: | Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | Number of attachments to the request: | |
| | | Total number of pages for all attachments: | |
| 6. | Urgency of reply | Date, if any, after which information would no longer be useful: | |
| | | Urgent reply required due to: | Please check the box: <input type="checkbox"/> Statute of limitation; date: <input type="checkbox"/> Suspected fraud <input type="checkbox"/> Court case <input type="checkbox"/> Other reasons (please specify): |
| 7. | Identity of person(s) under examination or investigation: ⁵ | | |
| 8. | Request to refrain from notifying the taxpayer(s) involved: ⁶ | Please check the box: <input type="checkbox"/> No | |

| | | | |
|-----|--|--|---|
| | | <input type="checkbox"/> Yes Reasons: <input type="checkbox"/> If yes, the competent authority confirms that the requesting country would be able to refrain from notification in similar circumstances. | |
| 9. | Time period or taxable event for which or in relation to which the information is sought: ⁷ | | |
| 10. | Tax(es) to which the request relates: ⁸ | | |
| 11. | Tax purpose for which the information is requested: | | Please check the box: <input type="checkbox"/> determination, assessment and collection of taxes ⁹ , <input type="checkbox"/> recovery and enforcement of tax claims ¹⁰ , <input type="checkbox"/> investigation or prosecution of tax matters ¹¹ , <input type="checkbox"/> other (please specify): |
| 12. | Relevant background: ¹² | | |
| 13. | Information requested: ¹³ | | |
| 14. | Grounds for believing that the requested information is held in the requested jurisdiction or is within the possession or control of a person within its jurisdiction: | | |
| 15. | Name and address of any person believed to be in possession of the information requested (to the extent known): | | |
| 16. | Form, if any, in which information is requested: ¹⁴ | For copies of documents what type of authentication, if any, is requested: | |
| | | Other form requirements, if any: | |

| | | |
|-----|---|---|
| 17. | Translation of reply requested: | Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No Language requested: |
| 18. | <p>In making the request, the requesting competent authority states that:</p> <p>(a) all information received in relation to this request will be kept confidential and used only for the purposes permitted in the agreement which forms the basis for this request;</p> <p>(b) the request is in conformity with its law and administrative practice and is further in conformity with the agreement on the basis of which it is made;</p> <p>(c) the information would be obtainable under its laws and the normal course of its administrative practice in similar circumstances;</p> <p>(d) it has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.</p> | |

Date

Authorised signature of requesting competent authority

¹ Please add name and address of the competent authority of the requested jurisdiction.

² Please add name and address of the competent authority of the requesting jurisdiction.

³ The contact point should have the authority to exchange information.

⁴ Please provide a reference number that the requested competent authority should use in case of questions and that allows you to retrieve the request and the related file.

⁵ Information about the identity of the person(s) under examination or investigation must be understood within the meaning of the commentary to Article 5(5) of the OECD Model Agreement on Exchange of Information on Tax Matters.

⁶ Some countries have rules that require them in certain cases to notify the taxpayer concerned about the request for information. Those rules provide for exceptions from the notification requirement in certain cases, for instance, in cases where the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation in the requesting country. This section indicates that the competent authority of the requesting country wishes to avail itself of any such exceptions and explains the reasons why the request may fall within the scope of such an exception.

⁷ The request should specify the taxable periods to which request relates. As an alternative the language refers to an “event” in cases where there is no taxable period, for instance, in case of the imposition of a withholding tax.

⁸ Please add the name of the tax(es), e.g. Federal corporate income tax. Add also the type of tax(es) (personal, corporate etc.) if the name of the tax(es) is not sufficiently indicative of the type of tax.

⁹ It is understood that the investigation of civil/administrative tax matters falls under this heading. The term “collection of taxes” is used to describe the normal method of collecting taxes and can involve collection via third parties such as an employer deducting tax on wages or a bank deducting tax on interest paid.

¹⁰ The terms “recovery and enforcement of tax claims” are used to refer to the processes used when there is a tax claim and can cover legal actions such as court orders, sequestration of funds, use of bailiffs and insolvency procedures.

¹¹ It is understood that the investigation or prosecution of criminal tax matters falls under this heading.

¹² Please provide the necessary background information which would typically include a brief summary of the ongoing examination or investigation and how the requested information relates to this examination or investigation. Where any other persons (e.g. individuals, companies, partnerships, trusts, etc), including foreign persons, are relevant to the examination or investigation and the request, please specify, to the extent known, their relationship to the taxpayer and provide information sufficient to identify these persons.

¹³ Please be as specific as possible about the information you are requesting as it will form the basis for any domestic information gathering measures taken by the requested competent authority.

¹⁴ Please specify in the relevant fields the format in which the information is requested. For instance, some countries have rules that require the information requested to be in a specific format in order to be properly introduced into evidence in a court proceeding. For example, there may be specific formats for the deposition of witnesses or the manner in which copies of original documents are authenticated.

Model Template 2

Letter to the requesting State acknowledging receipt of an EOI request

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear,

I acknowledge receipt of your request dated (insert date) for information in relation to the above case which we received on (insert date).

Enquiries are being carried out and I will issue a full response to you as soon as possible.

(Where the information requested is likely to be held by a taxpayer the following sentence should be included in the acknowledgement letter:

In the event that the information you requested is not already on our files, I intend to contact the taxpayer directly to obtain the information. If you have an objection to this course of action, please contact (Insert name of contact with position and phone and e-mail details).

I confirm that this information is governed by the provisions under Article xx of (Insert name of international tax treaty)

Yours sincerely,

Model Template 3

Sample of Interim 90 Day Reply to EOI request

(To be further developed and adapted to each particular situation where information cannot be provided within 90 days)

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear (Insert name of foreign competent authority),

I refer to your request dated (Insert date) for information in relation to the above case, which we received on (Insert date).

I wish to inform you that we have not as yet been able to obtain the requested information.

(Add some descriptive details as to why the information has not yet been provided.)

We will endeavour to forward the requested information to you as promptly as possible. We expect to be able to provide this information by (Insert date).

Should you have any queries relating to this matter, please contact (Insert name of contact with position and phone and e-mail details).

I confirm that this information is governed by the provisions under Article xx of (Insert name of international tax treaty).

Yours sincerely,

Model Template 4

Letter of request to Local Tax Office or Specialist Tax Office to provide information

Reference No. _____

(Date)

Dear _____,

A request for exchange of information information has been received from (insert name of foreign tax authority) pursuant to Article (Insert article number) Exchange of Information of the (Insert name of the international tax treaty).

Please provide the information described below on the following taxpayer(s):

| Name | Last Known Address |
|------|--------------------|
| | |
| | |

Information to be Provided

-
-

When complying, please refer to the reference number above and attach a copy of this letter. Please respond within 15 days from receipt of this letter to the EOI Unit Manager.

Note: should you have any queries relating to this matter, or in the unlikely event that the information holder challenges our authority to obtain the information requested please contact (Name) Manager of EOI Unit (Insert telephone and e-mail details)

Thank you.

(Name)
(Position)

Model Template 5

Letter of request to taxpayer/third party to provide information

ACCESS TO RECORDS AND REQUEST FOR INFORMATION

Date: _____

Dear Sir/Madam:

INFORMATION REQUESTED:

I would be grateful if you would provide me with the following documents and information for the use of the tax authorities.

(Insert details of the information required.)

This information is required under the terms of **[Insert reference to relevant section of domestic law]**. The information should be provided to this Office on or before (Insert date)

The documents and information provided will be treated in confidence. Any inquiry on this matter should be directed to (Insert name of contact with position and phone and e-mail details)

Yours sincerely

Model Template 6

Letter of request for banking information from financial institution

Reference No. _____
(Date)

(
Dear _____,

I would be grateful if you would provide information on the following individuals and/or entities:

Subject of Request for Information

| Name | Account No. |
|------|-------------|
| | |
| | |

Please provide the following information:

-
-

This information is required under the terms of **[Insert reference to relevant section of domestic law]**. Please respond within **[15 days]** from receipt of this letter to the (Insert name and address of the EOI Unit).

The documents and information provided will be treated in confidence. Any inquiry on this matter should be directed to (Insert name of contact with position and phone and e-mail details).

When replying, please refer to the reference number above and attach a copy of this letter.

Yours sincerely

Model Template 7

Notification Letter to Taxpayer where this is required by domestic legislation

Our ref: EOI

(Date)

Re: (taxpayer name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear,

Under the terms of **[Insert reference to law or regulation]** I wish to inform you that a request for information has been made by the tax administration of (insert country) under the provisions of the above international tax treaty.

Enquiries are being carried out with the (Insert name of bank or third party) in accordance with the powers given to me by **[insert reference to law or regulation]**.

Any inquiry on this matter should be directed to (Insert name of contact with position and phone and e-mail details).

Yours sincerely,

Model Template 8

Feedback Form from Local Tax Office

**REQUEST FOR INFORMATION
STATUS REPORT/FEEDBACK DOCUMENT**

Subject of Investigation: _____

Requesting Party: _____

Date of Referral to Local Tax Office: _____

(Note: Please use additional pages if necessary)

Action or Information Requested

Action Taken (Attach documentary proof)

Recommendations/Suggestions

Signed by: _____ Local Tax Officer

Noted by:

Local Tax Office Manager

Model Template 9

Subpoena to produce a document

[The proforma of the standard summons or subpoena in use in the particular jurisdiction will be inserted here]

Model Template 10

Final Reply to EOI request

(To be further developed and adapted to each particular situation where information is being provided)

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear*(insert name of foreign Competent Authority)*

I refer to your request for information dated (insert date), which we received on (insert date) and to subsequent correspondence of *(insert dates of correspondence, if any)*.

We wish to inform you that we have now completed our enquiries and have obtained the information needed to respond to your request.

Please find attached *(add details of attached documentation)*

Should you have any queries relating to this matter, please contact (Insert name of contact with position and phone and e-mail details).

The use and disclosure of this information is governed by the provisions of Article xx of (insert name of international tax treaty).

I would appreciate it if you could inform us, in due course, whether and how the information and documentation provided has helped you in your investigation

Yours sincerely,

Model Template 11

Final Reply to requested State where information has been received
(To be further developed and adapted to each particular situation where information is being provided)

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear*(insert name of foreign Competent Authority)*

Thank you for your letter of (insert date) containing the information we requested in the above case (*refer also to previous correspondence if relevant*).

We are grateful for your assistance in this matter. The information received has been passed on to the auditor/auditors responsible for the case and we will, in due course, provide you with feedback on the use and importance of this information for their investigation

Should you have any queries relating to this matter, please contact (Insert name of contact with position and phone and e-mail details).

I confirm that this information is governed by the provisions under Article xx of (Insert name of international tax treaty).

Yours sincerely,

Model Template 12

Letter to auditor accompanying information received from requested State
(To be further developed and adapted to each particular situation where information is being provided)

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear*(insert name of Auditor/Official)*

I refer to your request of (insert date) (and subsequent correspondence of (insert dates if relevant)) for exchange of information with *(insert name of country)*.

The information requested has now been received from the tax administration of *(insert name of country)* and a copy of the letter and documents requested are attached.

This information is to be treated as confidential. The use and disclosure of this information is governed by the provisions of **[insert reference to domestic law]** and Article xx of (insert name of international tax treaty). These documents are “treaty confidential” and should be stored securely. It is not permitted to make copies of them or to forward them to other offices without prior consultation with the EOI Unit.

Should you have any queries relating to this matter, please contact (Insert name of contact with position and phone and e-mail details).

Yours sincerely,

Model Template 13

Acknowledgment letter to the State providing spontaneous information

Our ref: EOI

Please quote our EOI number in all correspondence.

Your ref:

(Date)

Re: (Case name)

Exchange of Information under Article xx of (Insert name of international tax treaty)

Dear,*(insert name of foreign Competent Authority)*

Thank you for your letter of (insert date) containing the spontaneous exchange of information in the above case.

We are grateful for your assistance in this matter. The information received has been passed on to the auditor/auditors responsible for the case and we will, in due course, provide you with feedback on the use and importance of this information.

Should you have any queries relating to this matter, please contact (Insert name of contact with position and phone and e-mail details).

I confirm that this information is governed by the provisions under Article xx of (Insert name of international tax treaty).

Yours sincerely,