

Protocol

To the Agreement Between the Portuguese Republic and the Government of Bermuda

For the Exchange of Information relating to Tax Matters

The Portuguese Republic and the Government of Bermuda (the “Parties”) have agreed at the signing of the Agreement between The Portuguese Republic and the Government of Bermuda for the Exchange of Information relating to Tax Matters on the following provisions which shall form an integral part of the said Agreement:

1. With respect to Article 9 of the TIEA it is mutually decided that ordinary costs that are incurred for the purpose of responding to a request for information will be borne by the Requested Party. Such ordinary costs will normally cover internal administration costs of the competent authority and any minor external costs such as the cost of couriers.
2. Direct extraordinary costs incurred in providing assistance shall be borne by the requesting Party. The direct extraordinary costs shall include reasonable costs of engaging experts when necessary.
3. All reasonable costs incurred by third parties in complying with the request of exchange of information are considered extraordinary costs and will be borne by the requesting Party when duly justified.
4. The competent authorities will consult each other in any particular case where extraordinary costs are likely to exceed two thousand five hundred United States dollars (\$US 2, 500) to determine whether the Applicant Party will continue to pursue the request and bear the cost.
5. With respect to Article 5 of the TIEA it is mutually agreed that the time limit for availability of information should be applied according to the internal legislation of the Parties.
6. With respect to Article 12 Mutual Agreement Procedure of the TIEA, in the event that a Party applies prejudicial or restrictive measures based on harmful tax practices to residents or nationals of the other Party, either Party may immediately initiate competent authority proceedings to endeavour to resolve the matter. A prejudicial or restrictive measure based on harmful tax

practices is a measure applied by one Party to residents or nationals of either Party on the basis that any one or more of the following applies:

- (a) The other Party does not engage in effective exchange of information;
- (b) Because it lacks transparency in the operation of its laws, regulations or administrative practices; or
- (c) On the basis of no or nominal taxes.

7. The rights and safeguards secured to persons by the laws or administrative practices of the requested Party remain applicable. The rights and safeguards may not be applied by the requested Party in a manner that unduly prevents or delays effective exchange of information.

Competent authority
For the Portuguese Republic:

Competent authority
For the Government
of Bermuda
