

MF 34/06

AGREEMENT BETWEEN THE GOVERNMENT OF
UNITED STATES OF AMERICA AND THE GOVERNMENT
OF SAINT LUCIA FOR THE EXCHANGE OF
INFORMATION WITH RESPECT TO TAXES

The Government of the United States of America and the Government
of Saint Lucia, desiring to conclude an Agreement for the
exchange of information with respect to taxes (hereinafter
referred to as the "Agreement"), have agreed as follows:

file Public TAXATION Act

Article 1

OBJECT AND SCOPE OF THE AGREEMENT

1. The Contracting States shall assist each other to assure the accurate assessment and collection of taxes, to prevent fiscal fraud and evasion, and to develop improved information sources for tax matters. The Contracting States shall provide assistance through exchange of information authorized pursuant to Article 4 and such related measures as may be agreed upon by the competent authorities pursuant to Article 5.

2. Information shall be exchanged to fulfill the purpose of this agreement without regard to whether the person to whom the information relates is, or whether the information is held by, a resident or national of a Contracting State.

Article 2.

TAXES COVERED

1. This Agreement shall apply to the following taxes imposed by or on behalf of a Contracting State:

a) in the case of the United States of America,

- (i) Federal income taxes,
- (ii) Federal taxes on self-employment income,
- (iii) Federal taxes on transfers to avoid income tax,
- (iv) Federal estate and gift taxes,
- (v) Federal excise taxes; and

b) in the case of Saint Lucia:

- (i) Income Tax (including insurance premium tax),
- (ii) Corporation Tax and withholding tax,
- (iii) Succession duty,
- (iv) Property Transfer Tax.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The competent authority of each Contracting State shall notify the other of significant changes in laws which may affect the obligations of that State pursuant to this Agreement.

3. This Agreement shall not apply to the extent that an action or proceeding concerning taxes covered by this Agreement is barred by the applicant State's statute of limitations.

4. This Agreement shall not apply to taxes imposed by states, municipalities or other political subdivisions, or possessions of a Contracting State.

Article 3

DEFINITIONS

1. In this Agreement, unless otherwise defined:

a) The term "competent authority" means:

(i) in the case of the United States of America, the Secretary of the Treasury or his delegate, and

(ii) in the case of Saint Lucia, the Minister of Finance or his authorized represent *to finance*

b) The term "national" means:

(i) in the case of the United States, any individual who is a citizen of the United States and any person other than an individual deriving its status as such from the United States or any political subdivision thereof; and

(ii) in the case of Saint Lucia, any individual who is a citizen of Saint Lucia and any person other than an individual deriving its status as such from the laws of Saint Lucia.

- c) The term "person" includes an individual and a partnership, corporation, trust, estate, association or other legal entity.
- d) The term "tax" means any tax to which the Agreement applies.
- e) For purposes of determining the geographical area within which jurisdiction to require production of information may be exercised, the term "United States" means the United States of America, including Puerto Rico, the Virgin Islands, Guam, and any other United States possession or territory, and the territorial waters thereof.
- f) For purposes of determining the geographical area within which jurisdiction to require production of information may be exercised, the term "Saint Lucia" means the island of Saint Lucia and the territorial waters thereof.
- g) The terms "applicant State" and "requested State" mean respectively, the Contracting State applying for or receiving information and the Contracting State providing or requested to provide such information.
- h) The term "information" means any fact or statement relevant or material to tax administration and enforcement, including (but not limited to):
 - (i) testimony of an individual, and

(ii) documents, records or tangible personal property of a person or Contracting State.

2. Any term not defined in this Agreement, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 5, shall have the meaning which it has under the laws of the Contracting State relating to the taxes which are the subject of this Agreement.

Article 4

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange information to administer and enforce the domestic laws of the Contracting States concerning taxes covered by this Agreement.

* 2. The competent authorities of the Contracting States shall automatically transmit information to each other for the purposes referred to in paragraph 1. The competent authorities shall determine the items of information to be exchanged pursuant to this paragraph and the procedures to be used to exchange such items of information.

3. The competent authority of a Contracting State shall * spontaneously transmit to the competent authority of the other State information which has come to the attention of the first-mentioned State and which is likely to be relevant to, and bear

significantly on, accomplishment of the purposes referred to in paragraph 1. The competent authorities shall determine the information to be exchanged pursuant to this paragraph and take such measures and implement such procedures as are necessary to ensure that the information is forwarded to the competent authority of the other State.

4. a) The competent authority of the requested State shall endeavour to provide information upon request by the competent authority of the applicant State for the purposes referred to in paragraph 1 of this Article. If the information available in the tax files of the requested State is not sufficient to enable compliance with the request, that State shall endeavour to take all available measures to provide the applicant State with the information requested.
- b) Privileges under the laws or practices of the applicant State shall not apply to the requested State's execution of a request but shall be preserved for resolution by the applicant State.

5. If information is requested by a Contracting State pursuant to paragraph 4, the requested State shall endeavour to obtain the information requested in the same manner and form provided for in its relevant legislation. If specifically requested, the requested State shall endeavour to provide information under this Article in the form of depositions of witnesses and authenticated

unedited original documents, or copies thereof (including books, papers, statements, records, accounts and writings), to the same extent such depositions and documents can be obtained under the relevant laws and administrative practices.

However, if specifically requested by the competent authority of the applicant State, the requested State shall:

- a) permit the presence of individuals designated by the competent authority of the applicant State as being involved in or affected by execution of the request, including an accused, counsel for the accused, individuals charged with the administration and enforcement of the domestic laws of the applicant State covered by this Agreement, and a commissioner or magistrate present for the purpose of rendering evidentiary rulings or determining issues of privilege under the laws of the applicant State;
- b) provide individuals permitted to be present with an opportunity to question, directly or through the executing authority, the individual giving testimony or producing books, papers, records and other tangible property.

6. The provisions of the preceding paragraphs shall not be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that State or

- of the other Contracting State;
- b) to supply particular items of information which are not obtainable under the laws or in the normal course of the administration of that State or of the other Contracting State;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process;
 - d) to supply information, the disclosure of which would be contrary to public policy (ordre public);
 - e) to supply information requested by the applicant State to administer or enforce a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State. A provision of tax law, or connected requirement, will be considered to be discriminatory against a national of the requested State if it is more burdensome with respect to a national of the requested State than with respect to a national of the applicant State in the same circumstances. For purposes of the preceding sentence, a national of the applicant State who is subject to tax on worldwide income is not in the same circumstances as a national of the requested State who is not subject to tax on worldwide income. The provisions of this

subparagraph shall not be construed to prevent the exchange of information with respect to the taxes imposed by either the United States or Saint Lucia on branch profits or on the premium income of nonresident insurers or foreign insurance companies.

7. Except as provided in paragraph 6 of this Article, the provisions of the preceding paragraphs shall be construed so as to impose on a Contracting State the obligation to use all reasonable legal means and its best efforts to execute a request. A Contracting State may, in its discretion, take measures to obtain and transmit to the other State information which, pursuant to paragraph 6, it has no obligation to transmit.

8. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to individuals or authorities (including judicial and administrative bodies) involved in the determination, assessment, collection, and administration of, the recovery and collection of claims derived from, the enforcement or prosecution in respect of, or the determination of appeals in respect of, the taxes which are the subject of this Agreement, or the oversight of the above. Such individuals or authorities shall use the information only for such purposes. These individuals or authorities may disclose the information in public court proceedings or in judicial decisions. Information shall not be disclosed to any

third jurisdiction for any purpose without the consent of the Contracting State originally furnishing the information.

NIB

Article 5

MUTUAL AGREEMENT PROCEDURE AND COSTS

1. The competent authorities of the Contracting States shall agree to implement a program to carry out the purposes of this Agreement.
2. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement and may communicate directly for this purpose. In particular, the competent authorities may agree to a common meaning of a term and may determine when costs are extraordinary for purposes of this Article.
3. Unless the competent authorities of the Contracting States otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested State and extraordinary costs incurred in providing assistance shall be borne by the applicant State.

Article 6

OTHER APPLICATIONS OF AGREEMENT

Subject to enactment of appropriate enabling legislation, this Agreement is consistent with the standards for an exchange of information agreement described in Section 274 (h) (6) (C) of the United States Internal Revenue Code of 1986, as amended (the "Code") (relating to deductions for attendance at foreign conventions), and referred to by cross-reference in Section 927 (e) (3) (A) of the Code (relating to foreign sales corporations) and Section 936 (d) (4) (relating to Puerto Rico and the possession tax credit).

Article 7

ENTRY INTO FORCE

This Agreement shall enter into force upon an exchange of notes on undertakings specified in the Annex to this Agreement by the duly authorized representatives of the Contracting States confirming their mutual agreement that both sides have met all constitutional and statutory requirements necessary to effectuate this Agreement.

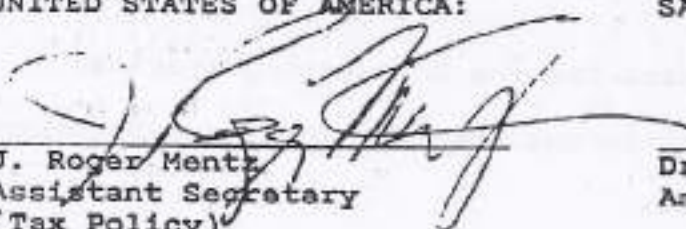
Article 8

AMENDMENT AND TERMINATION

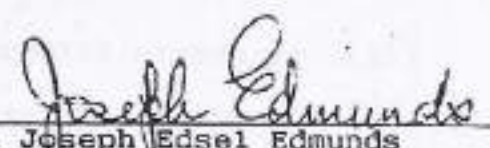
1. This Agreement may be modified or amended by mutual consent of the Contracting States.
2. This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement at any time after the Agreement enters into force provided that at least 6 months' prior notice of termination has been given.

DONE at Washington, D.C. in duplicate, this
30th day of January, 1987.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:


J. Roger Mentz
Assistant Secretary
(Tax Policy)
Department of the Treasury

FOR THE GOVERNMENT OF
SAINT LUCIA:


Dr. Joseph Edsel Edmunds
Ambassador

ANNEX TO THE AGREEMENT

SUBSTANCE OF NOTES TO BE EXCHANGED PURSUANT TO ARTICLE 7 OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SAINT LUCIA FOR THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES

The respective delegations agree that the following understandings and undertakings will be included in an exchange of notes between the authorized representatives of the Contracting States.

1. That the respective Contracting States hereby confirm that each side has met all constitutional and statutory requirements necessary to effectuate the Agreement, including enabling legislation by which each of the respective competent authorities has authority:
 - (i) to obtain and provide information from financial institutions; and
 - (ii) to obtain information for the Contracting State as though the information was required for the enforcement of its own tax laws.
2. That the information to be exchanged under the provision of Article 4, Paragraph 1, includes information to effect the determination, assessment, and collection of tax, the recovery and enforcement of tax claims, or the investigation

ANNEX TO THE AGREEMENT

or prosecution of tax crimes or crimes involving the
contravention of tax administration.

3. That, if specifically requested by the competent authority of the applicant State, the requested State shall:
 - (i) specify the time and place for the taking of testimony or the production of books, papers, records, and other tangible property;
 - (ii) place the individual giving testimony or producing books, papers, records and other tangible property under oath;
 - (iii) examine the individual producing books, papers, records and other tangible property regarding the purpose for which and the manner in which the item produced is or was maintained;
 - (iv) certify either that procedures requested by the competent authority of the applicant State were followed or that the procedure requested could not be followed, with an explanation of the deviation and reason therefor;
4. That the competent authority of the requested State shall

ANNEX TO THE AGREEMENT

allow representatives of the applicant State to interview individuals and examine books and records with the consent of the individuals contacted.

5. That the laws of the respective contracting States do not permit bearer shares of companies organized pursuant to those laws.

6. That the matter as to what constitutes extraordinary costs under Article 5 will be addressed by the contracting States in a subsequent exchange of notes.

7. That the program referred to in Article 5, paragraph 1, may include, in addition to the exchanges specified in Article 4, other measures to improve tax compliance such as exchange of technical know-how, development of new audit techniques, identification of new areas of non-compliance, and joint studies of non-compliance areas.