

[Territory]

**FOREIGN ACCOUNT TAX COMPLIANCE ACT (United States of America) (IMPLEMENTATION AND ENFORCEMENT of Inter-Governmental Agreement) BILL 2014**

No. of 2014

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**SCHEDULE**

AGREEMENT BETWEEN THE GOVERNMENT OF [TERRITORY] AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT THE FOREIGN ACCOUNT TAX COMPLIANCE ACT

[Territory]

Foreign Account Tax Compliance Act (United States of America) (Implementation and Enforcement of Inter-Governmental Agreement) Bill, 2014

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I ASSENT

Governor

DATE:

[Territory]

No. of 2014

**A BILL FOR**

AN ACT TO MAKE PROVISION FOR AUTHORISING THE ENFORCEMENT OF THE OBLIGATIONS OF [TERRITORY] UNDER AN AGREEMENT FOR COOPERATION TO FACILITATE THE IMPLEMENTATION OF THE FOREIGN ACCOUNT TAX COMPLIANCE ACT INTER-GOVERNMENTAL AGREEMENT.

BE IT ENACTED by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of [Territory] and by the authority of the same as follows:—

**1 Short title and commencement**

This Act may be cited as the Foreign Account Tax Compliance Act (United States of America) (Implementation and Enforcement) Act, 2014 and comes into force by Order on a date fixed by the [Governor/Governor General acting on the advice of Cabinet].

**2 Interpretation**

(1) In this Act—

“**Agreement**” means the Inter-Governmental Agreement made between the Government of [Territory] and Government of The United States of America for cooperation to facilitate the implementation of the Foreign Account Tax Compliance Act, as set out in the Schedule;

“**Competent Authority**” means the [Comptroller of Inland Revenue];

“**Contracting Parties**” means the parties to the Agreement as set out in the Schedule;

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**“Financial institution”** means a reporting financial institution or a person who carries on business in [Territory] as:

- (a). a custodial institution;
- (b). a depository institution;
- (c). an investment entity;
- (d). or a specified insurance company.

**“Court”** means the High Court.

**“FATCA”** means the Act commonly known as the Foreign Account Tax Compliance Act in the enactment of the United States called the Hiring Incentives to Restore Employment Act.

**“reportable account”** means reportable account as set out in the Schedule.

- (2) In this Act any expression which is defined in the Agreement but not in this Act has the same meaning in this Act as in the Agreement.

### **3 Articles of Agreement to have the force of law**

The Articles of the Agreement shall have the force of law in [Territory].

### **4 Amendments to the Agreement**

Where an amendment to the Agreement is accepted by both the Government of [Territory] and the Government of the United States of America, the Governor/Governor General acting on the advice of Cabinet may by Order amend the Schedule for the purpose of including the amendments.

### **5 Competent Authority to exercise powers and authorities**

- (1) The [Comptroller of Inland Revenue] is hereby designated the Competent Authority.
- (2) The Competent Authority shall exercise his or her functions acting alone, or through a person designated by the Competent Authority to act on his or her behalf in an administrative capacity.
- (3) The Competent Authority may exercise all powers vested in him under the *[Income Tax Act]*—
  - (a) to administer and process any request made under the Agreement;
  - (b) for the rendering of reciprocal assistance to facilitate the administration of the Agreement.

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- (4) Without prejudice to the generality of subsection (1), the Competent Authority may request a financial institution to furnish to him at a time and in a manner as the Competent Authority may determine, information and data as he may require for the proper discharge of his functions and responsibilities under the Agreement.
- (5) Notwithstanding, the [*Confidential Information Act*] or any other law relating to confidentiality, a financial institution may communicate or allow to be communicated any information required to be disclosed to or by the Competent Authority under the Agreement.
- (6) A financial institution which refuses to or fails, without lawful excuse, to provide any information requested under this section commits an offence and is liable on summary conviction to a fine of [ten thousand] dollars.
- (7) A financial institution is liable to a penalty of [ten thousand] dollars if, without lawful excuse, *it fails to provide accurate information/provides inaccurate information*, as requested under subsection (2).

**6 Compliance officer to identify reportable accounts**

- (1) In relation to all financial accounts which a financial institution maintains, the financial institution shall appoint a compliance officer who shall be responsible for maintaining arrangements that are designed to identify reportable accounts.
- (2) The financial institution shall be taken to have complied with this obligation only if the arrangements meet the due diligence requirements set out in the Schedule of the Agreement.

**7 Secrecy**

- (1) Subject to this section, the Competent Authority and any person employed in carrying out the provisions of or having any official duty under the Agreement shall regard and deal with as secret—
  - (a) all documents and information relating to any person, and
  - (b) all confidential information,with respect to the administration of the Agreement, which may come into his possession or to his knowledge in the course of the performance of his duties.
- (2) The obligation as to secrecy imposed by this section continues to apply to a person despite him having ceased to be appointed under or employed in carrying out the provisions of the Agreement.
- (3) No person in subsection (1) is required to produce in Court or to divulge or communicate any information which comes to his knowledge in the performance of

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his official duties or employment with respect to the Agreement, except to the extent to which it is necessary for the purposes of the Agreement.

- (4) A person who discloses or divulges any information or produces any document in contravention of this section commits an offence and is liable on summary conviction to a fine of [five thousand dollars or one year imprisonment].
- (5) Nothing in this section applies to the disclosure of any confidential information to a person to whom disclosure is necessary for the purposes of the Agreement.

**8 Restrictions on use of information provided**

The Competent Authority shall not consent to the use or transmission by the Government of the United States of America of information provided under this Act or Agreement for purposes, investigations or proceedings other than those stated in the Agreement, unless the transmission or use is authorised by the Court.

**9 Costs**

The Competent Authorities of the Contracting Parties to the Agreement may agree on the incidence of costs arising out of a request for the exchange of information.

**10 Immunity from suit**

- (1) The Competent Authority or a person acting under his authority who discloses confidential information in compliance with section 5 does not commit an offence under the [*Confidential Information Act*] or any other law in force in [Territory] by reason only of the disclosure.
- (2) A disclosure referred to in subsection (1) is not a breach of a confidential relationship between the person who discloses the information and any other person, and no civil claim or action whatsoever lies against the person making the disclosure by reason of the disclosure.

**11 Regulations**

The Minister for Finance may make/issue Regulations to give effect to the provisions of the Agreement and this Act.

**SCHEDULE**

(Section 2)

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**AGREEMENT BETWEEN THE GOVERNMENT OF [TERRITORY] AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT THE FOREIGN ACCOUNT TAX COMPLIANCE ACT**

**SPEAKER**

Passed the Legislative Assembly this day of , 2014.

**CLERK OF THE LEGISLATIVE ASSEMBLY**