



COMMONWEALTH OF THE BAHAMAS

FIN 1400.02 (2)

To. In Responding Please  
Quote This Number

OFFICE OF THE MINISTER OF FINANCE

15<sup>th</sup> March, 2002

**Mr. Donald J. Johnston**  
**OECD Secretary-General**  
**2, rue Andre Pascal**  
**75775 Paris CEDEX 16**  
**France**

**Dear Mr. Johnston:**

I refer to the discussions that have taken place between the Government of The Bahamas and the OECD Forum on Harmful Tax Practices, The Bahamas' response is as follows.

The Bahamas has already abolished bearer shares for International Business Companies (IBCs) by legislation enacted on 29<sup>th</sup> December 2000. All bearer shares previously issued have been recalled as of 30<sup>th</sup> June 2001.

Moreover, The Bahamas requires that records of beneficial ownership of all shares of IBCs established in The Bahamas be maintained by a licensee under the Banks and Trust Companies Regulation Act or by registered agents licensed under the Financial and Corporate Service Providers Act. In relation to trust business, records of settlors and beneficiaries of trusts established in The Bahamas are required by law to be maintained by trustees.

Attached is a schedule of commitments which have been the subject of discussions between us and which I am now authorised to make on behalf of the Government of The Bahamas. These commitments contained in the Annex hereto, which are to be read in conjunction with this cover letter, are offered on the basis that:

- The Bahamas is not included on the OECD list of Un-cooperative Tax Havens nor subject to any framework of co-ordinated defensive measures;
- The Bahamas will protect its economic interest and fiscal autonomy in all negotiations with OECD. The Bahamas considers the establishment of a level playing field among all OECD member countries and also those non-member jurisdictions with which it is materially in competition in the provision of cross border financial services to be critical to its economic interest.
- Those jurisdictions, including OECD member countries and other countries and jurisdictions yet to be identified, that fail to make equivalent commitments or to satisfy the standards of the 1998 Harmful Tax Competition Report, will be the subject of a framework of co-ordinated defensive measures;


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- The Bahamas is invited to participate on an equal basis in any discussions in the Global Forum on the design of internationally accepted standards for the implementation of these and any similar commitments; and
- The detailed implementation of any commitments not already provided for under Bahamian law is subject to the approval of the Parliament of The Bahamas. As regards the exchange of information on savings instruments in civil tax matters, such implementation will also take into account the application of international standards in these matters.

The Government of The Bahamas will ensure that:

- No new regime or practice is introduced that fails to comply with the principles of transparency and effective exchange of information; and
- No existing regime or practice is modified in such a way that after the modification it would not comply with the principles of transparency and effective exchange of information.

**Yours Faithfully,**



**William C. Allen, K.C.M.G., M.P.  
MINISTER**

#### **Annex**

This annex, which is to be read in conjunction with the transmittal letter, sets out the manner in which The Bahamas will implement its commitment and outlines the measures that the Government of the Commonwealth of The Bahamas is prepared to take on a phased basis by 31 December 2005 in cooperation with the OECD.

#### **A. Establishing a Process for an Effective Exchange of Information.**

1. The Commonwealth of The Bahamas agrees to the effective exchange of information for criminal tax matters which shall become effective for the first tax year after 31 December 2003. As regards the effective exchange of information for civil tax matters this will become effective for the first tax year after 31 December 2005. Such exchanges shall be achieved under negotiated tax information exchange agreements that require the effective exchange of information in specific tax matters pursuant to a specific request. The tax information exchange agreements will define

the tax matters covered and include protections against unauthorized disclosures or unauthorized use of information.

2. In a case involving information required for the investigation and prosecution of criminal tax matters, information shall be provided without the requirement that the conduct being investigated must constitute a crime in The Bahamas.

3. In the case of information requested in the context of a civil tax matter, the absence of a Bahamian tax interest in the case or in obtaining the information shall not be a bar to the provision of information.

4. The Bahamas will have administrative practices and resources in place so that effective exchange of information will function effectively.

## **B. Transparency**

1. The Bahamas will ensure that information on beneficial ownership of companies, partnerships, other legal entities and on trustees and beneficiaries of trusts established in The Bahamas is available to its tax or regulatory authorities. This will include companies and other entities having a place of business in The Bahamas provided that the information is present within The Bahamas, or in the possession or control of a person subject to the jurisdiction of The Bahamas. The Bahamas agrees that such information will be subject to exchange agreements referred to in paragraph A.1.

2. Subject to de minimis and other exceptions (including an exception for locally owned domestic operations) to be developed together with the OECD and other committed jurisdictions, The Bahamas agrees to require financial accounts to be kept by companies, partnerships, trusts and other legal entities established or having a place of business in The Bahamas. The requirement to audit accounts will follow accepted international standards. The Bahamas agrees that such accounts will also be subject to exchange under the tax information exchange agreements referred to in paragraph A.1.

3. The Bahamas agrees that its regulatory authorities will have access to bank information to the extent necessary to perform obligations under a tax information exchange agreement concluded pursuant to paragraph A.1.