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Report to the Permanent Subcommittee  
on Investigations, Committee on  
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September 2011

TAX  
ADMINISTRATION

IRS's Information  
Exchanges with Other  
Countries Could Be  
Improved through  
Better Performance  
Information

U.S. Government Accountability Office

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ACCOUNTABILITY ★ INTEGRITY ★ RELIABILITY

Highlights of [GAO-11-730](#), a report to the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

### Why GAO Did This Study

With trillions of dollars in cross-border financial activity, U.S. tax authorities and others around the world exchange information with each other to administer and enforce compliance with the tax laws of their respective countries.

GAO was asked to (1) identify and describe all income tax treaties and other such agreements between the United States and other countries, (2) describe the volume of exchange activity, types of information exchanged between the United States and its treaty partners, and request processing times, and (3) identify opportunities to improve the effectiveness of current U.S. information exchange processes and procedures. GAO analyzed agreement documents, IRS data on information exchanges, and interviewed program officials and the users of exchanged information.

### What GAO Recommends

GAO recommends that the Commissioner of Internal Revenue determine the key types of performance information that exchange program managers could use to ensure the program is working as well as possible. Specifically, the Commissioner should require the collection of (1) consistent and accurate data on specific tax information exchange cases and (2) feedback from program users on a routine basis as part of regular program operations. IRS concurred with our recommendation. The agencies discussed in this report also suggested technical changes to a draft of this report which GAO incorporated as appropriate.

View [GAO-11-730](#). For more information, contact Michael Brostek at (202) 512-9110 or [brostekm@gao.gov](mailto:brostekm@gao.gov).

## TAX ADMINISTRATION

### IRS's Information Exchanges with Other Countries Could Be Improved through Better Performance Information

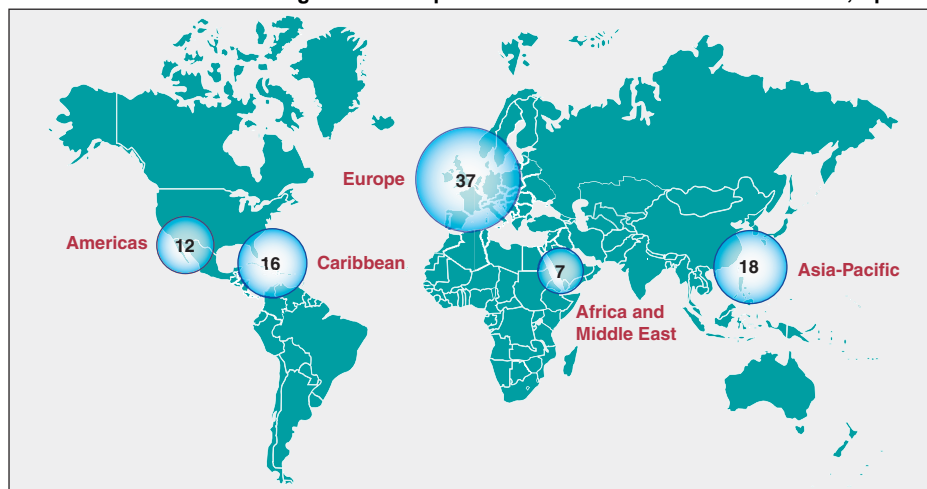
#### What GAO Found

Treaties and other agreements authorizing information exchange provide tax authorities in the United States and abroad with a useful tax law enforcement tool. As of April 30, 2011, the United States had such agreements in force with 90 foreign jurisdictions. Agreements have many similar features, but the bounds within which information can be exchanged are unique to the legal and administrative arrangements agreed to by the United States and each partner.

Between 2006 and 2010, 5,111 requests for information to or from the United States and 75 foreign jurisdictions were completed; 4,217 were incoming requests for information such as tax returns or corporate records and 894 were outgoing requests from the United States. IRS's enforcement presence also relies on several other methods to obtain relevant information, including a mechanism which yields about 2.1 million records annually from treaty partners. GAO estimates that most requests close about 50 to 200 days after being opened, but some take much longer. The time it takes to close requests can be influenced by factors such as the complexity of the requested information and the legal system of the treaty partner. GAO analysis of IRS data shows that the United States takes more time to close incoming requests for some groups of countries than others.

Although IRS collects data on exchanges between the United States and its treaty partners, the agency does not consistently collect or analyze performance information, such as the type of information requested, whether the information was collected successfully, or feedback from staff making the requests about the usefulness of the information or their views on the process for obtaining it. Collecting this information could help program managers assess how well the IRS is managing the information exchange process, and whether changes to administrative processes and procedures could improve the exchange of information between the United States and its treaty partners.

**Bilateral Information Exchange Partnerships between the U.S. and Other Countries, April 2011**



Sources: GAO analysis of data from Thomson Reuters, Government Printing Office (GPO), Lexis Nexis, and the Department of State; Map Resources (map).

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# Contents

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Letter		1
	Background	3
	Agreements That Authorize Exchange of Information between the United States and its Treaty Partners Differ in Content and Application	12
	Volume, Type, and Processing Time of Requests Varies	21
	Improved Collection of Balanced Performance Data Could Help IRS Improve Administrative Processes and Program Outcomes for Exchange of Information	33
	Conclusions	36
	Recommendation for Executive Action	36
	Agency Comments and Our Evaluation	36
Appendix I	Scope and Methodology	38
Appendix II	Article 26 (Exchange of Information and Administrative Assistance) of 2006 U.S. Model Tax Convention	42
Appendix III	Administrative Processes for Addressing Outgoing and Incoming Specific Requests for Information	44
Appendix IV	Income Tax Treaties, TIEA, MLAT, and MLAA between the United States and Foreign Jurisdictions as of April 30, 2011	46
Appendix V	Catalog and Key Characteristics of Information Exchange Agreements	65
Appendix VI	Composition of Treaty Partner Groupings	75
Appendix VII	Comments from the Internal Revenue Service	79

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Appendix VIII

GAO Contact and Staff Acknowledgments

81

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Tables

Table 1: Number of New Incoming and Outgoing Specific Information Exchange Requests, 2006-2010	21
Table 2: Processing Time for Closed Incoming and Outgoing Requests, by Information Category, 2006-2009	25
Table 3: Model Estimates of Country Group Differences in Average Request Processing Time for Closed Cases, 2006-2010	30
Table 4: Article 26 of 2006 U.S. Model Tax Convention	42
Table 5: Presence of Provisions Included in Article 26 of 2006 U.S. Model Tax Convention in Most Recent U.S. Tax Treaties in Force (Chronological)	65
Table 6: Description of Key Features Included in U.S. TIEAs (Chronological)	69
Table 7: Description of Key Features Included in Bilateral U.S. MLATs (Chronological)	72

---

Figures

Figure 1: Administrative Processes for Addressing Outgoing and Incoming Specific Requests for Information	11
Figure 2: Bilateral Tax Information Exchange Partnerships Between the United States and Other Countries, April 2011	14
Figure 3: Numbers of Treaty Partners with Different Combinations of Agreements in Force That Authorize Tax Information Exchange	16
Figure 4: Distribution of Information Types Requested for 3,569 Requests with Available Data, 2006-2009	23
Figure 5: Estimated Probability That a Request Will Close at a Certain Time, 2006-2010	26

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**G A O**

Accountability \* Integrity \* Reliability

**United States Government Accountability Office**  
Washington, DC 20548

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September 9, 2011

The Honorable Carl Levin  
Chairman  
The Honorable Tom Coburn  
Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Governmental Affairs  
United States Senate

As globalization and technological advancements continue to reduce barriers to cross-border commerce, individuals and businesses are increasingly conducting trade and earning income beyond traditional geographic or political boundaries. According to the U.S. Department of Commerce, Bureau of Economic Analysis, in 2010, U.S. exports of goods and services and income receipts were estimated at \$2.5 trillion (\$1.83 trillion in exports of goods and services and \$0.66 trillion in income receipts on U.S.-owned assets abroad). Meanwhile, imports of goods and services and income payments were valued at \$2.83 trillion (\$2.33 trillion in imports of goods and services, and \$0.5 trillion in income payments on foreign-owned assets in the United States).

Tax authorities around the world have made increasing use of information exchange with other countries to administer and enforce the tax laws of their respective countries. In this environment, it is particularly important that the United States continues to develop and maintain cooperative cross-border relationships with other countries to ensure that U.S. taxpayers comply with U.S. tax laws. The legal authority to obtain information from other countries through international agreements such as income tax treaties,<sup>1</sup> Tax Information Exchange Agreements (TIEA), and Mutual Legal Assistance Treaties (MLAT) and Agreements (MLAA) provides federal officials in the United States with an important tax law enforcement tool.

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<sup>1</sup> Throughout this report, the term “tax treaties” is used to refer to income tax treaties. The United States also has estate tax treaties with several countries, but they are not the subject of this report, other than as mentioned below. Internal Revenue Service (IRS) and Department of the Treasury officials told us that information exchange under these treaties is rare. Information exchange data provided by IRS and discussed in this report included exchanges made under these treaties.

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Given that little is known about the extent to which information is shared under these agreements, you asked us to report on exchange practices between the United States and other countries. On the basis of your request and subsequent discussions with your offices, this report: (1) identifies and describes all bilateral income tax treaties, TIEAs, and MLATs between the United States and other countries in force, proposed, or signed as of April 30, 2011; (2) describes the volume of exchange activity, types of information exchanged between the United States and its treaty partners, and the time to process requests for information; and (3) identifies opportunities to improve the effectiveness of current U.S. information exchange processes and procedures. This report also describes the legal framework and administrative processes that the United States uses to exchange information with its treaty partners.

For all three of our report's objectives, we interviewed relevant officials from the Department of the Treasury, the Internal Revenue Service (IRS), the Department of Justice (DOJ), and the Department of State and examined applicable policies and guidance to understand the administrative procedures involved in information exchange. To identify and describe agreements, we obtained copies of all current bilateral U.S. income tax treaties, TIEAs, and MLATs and created a comprehensive catalog, capturing key dates and other descriptive elements. We also conducted a content analysis of information exchange provisions contained in all of the information exchange agreements in force between the United States and foreign jurisdictions as of April 30, 2011, to identify and compare key requirements or restrictions for information exchange contained in each agreement. To determine the volume of exchange activity, types of information exchanged, and the time required to complete information exchange requests, we obtained data from the IRS Exchange of Information and Overseas Operations (EOI/OO) division on information exchanges completed between January 1, 2006 and December 31, 2010. To assess the reliability of these data, we questioned knowledgeable officials, reviewed system documentation, and examined the data for obvious errors. We determined the data to be sufficiently reliable for this report. To determine if opportunities exist to improve IRS processes related to international information exchange, we reviewed GAO and other guidance on internal controls and interviewed officials from IRS, DOJ, and the Organisation for Economic Co-operation and Development (OECD) to obtain their perspectives on the effectiveness of the current administrative practices for the exchange of tax information. More detailed information on our methodology can be found in appendix I.

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We conducted this performance audit from January 2010 through September 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

International agreements, such as income tax treaties, permit the United States and other countries to provide information to each other for tax administration and enforcement purposes through a process referred to as *exchange of information* or *information exchange*. Information may be shared upon request or without a preceding request.

The information shared between countries can cover a range of documents and sources, and can occur in a variety of formats. Exchanges include responses to narrowly tailored requests for documents related to a specific taxpayer, as well as records for thousands of taxpayers. Exchanges are not limited to tax returns and other tax system-specific information; other sources can involve public records, information from securities brokers, and real-estate information. Exchanges are also defined to include broad-based discussions of policy and administration between tax authorities. According to the Joint Committee on Taxation (JCT), there were nearly 2.5 million disclosures of tax returns or return information to foreign countries under tax treaty disclosure authority in 2010.<sup>2</sup> The total number of disclosures may be greater than the number of taxpayers involved, as the same taxpayer may be the subject of more than one information exchange.

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## Legal Framework of Exchange of Information

Tax treaties, Tax Information Exchange Agreements (TIEA), and Mutual Legal Assistance Treaties (MLAT)<sup>3</sup> provide U.S. officials working on tax matters the authority to exchange information with authorities in other

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<sup>2</sup>Joint Committee on Taxation, "Disclosure Report for Public Inspection Pursuant to Internal Revenue Code Section 6103(p)(3)(C)," JCX-26-11 (Washington, D.C.: May 5, 2011).

<sup>3</sup>The instruments governing exchanges with China and Taiwan are Mutual Legal Assistance Agreements (MLAA) rather than treaties, but are similar in scope and legal effect. For the purposes of this report, MLATs refer to both MLATs and MLAAAs.



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countries. Generally, these agreements contain exchange of information provisions that have been agreed upon by the United States and one other country or jurisdiction; that is, they are bilateral.<sup>4</sup> While U.S. domestic law or international law does not prevent countries from providing the United States with otherwise unprotected information, such exchanges typically do not occur outside the bounds of these agreements.<sup>5</sup>

## Agreement Types

Tax treaty provisions cover a wide range of tax issues but have two primary purposes; (1) avoiding double taxation<sup>6</sup> and (2) enforcing the domestic tax laws of treaty partners. All but one tax treaty between the United States and other countries contains provisions that authorize exchange of information.<sup>7</sup> According to officials at the Department of the Treasury, U.S. officials generally rely on a model income tax treaty to identify the terms and provisions that the United States would like to incorporate into its agreements with other countries. The U.S. Model Income Tax Convention of 2006 is the most recently published model treaty that U.S. officials rely on to negotiate tax treaty provisions, and includes Article 26 concerning information exchange. The Department of State serves as an advisor to the Department of the Treasury, which

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<sup>4</sup>Multilateral agreements (agreements between the United States and multiple parties) may also authorize exchange of information for tax purposes. The United States has ratified several multilateral treaties including but not limited to the Hague Convention on the Taking of Evidence, the Convention on Mutual Administrative Assistance in Tax Matters, and the Inter-American Convention on Mutual Assistance in Criminal Matters.

<sup>5</sup>Under certain circumstances, information may be exchanged outside of the bounds of formal agreement or when there is no obligation to provide the information. For example, the Department of the Treasury's Financial Crimes and Enforcement Network (FinCEN) may coordinate with financial intelligence agencies in other countries to facilitate exchange of information for certain financial crimes.

<sup>6</sup>For income taxes, double taxation occurs when two or more countries levy taxes on the same income.

<sup>7</sup>The U.S. treaty with the former Union of Soviet Socialist Republics (USSR) does not contain exchange of information provisions. Currently, this treaty covers tax matters between the United States and Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan. Similarly, the U.S. treaty with Bermuda does not contain an information exchange article. The agreement does, however, contain an article for mutual assistance in tax matters that permits the exchange of information for criminal tax matters. The U.S. also has a TIEA with Bermuda.

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develops and negotiates tax treaties and other international agreements related to tax matters.<sup>8</sup>

Although model treaties are the starting point for U.S. negotiations with other countries, officials we spoke to noted that the terms and conditions of tax treaties, like other international agreements, are the product of negotiations between the countries involved. Specific agreements vary in the terms or provisions governing exchange of information between the United States and individual treaty partners, and, as discussed later in this report, these variations can have meaningful effects on the exchange of information process.<sup>9</sup> When seeking approval for a treaty, including tax treaties, the Secretary of State formally submits the proposed treaty to the President of the United States for transmittal to the United States Senate. Following advice and consent of the United States Senate, the President of the United States signs the treaty, and directs the Secretary of State to take the actions necessary for the treaty to enter into force. After both countries have complied with the entry-into-force provisions of the treaty, it becomes binding under international law.

TIEAs also authorize exchange of information between the United States and other countries for tax purposes. Like tax treaties, the provisions contained in TIEAs must be agreed upon by all parties to the agreement, and the terms and conditions governing exchange of information between the United States and other countries may differ from agreement to agreement. Unlike treaties, however, TIEAs are executive agreements that are signed by the President of the United States and do not require the advice and consent of the United States Senate. Also, while tax treaties cover a broad array of tax matters including exchange of information, the sole purpose of a TIEA is to facilitate the exchange of information. As with tax treaties, TIEAs become binding under international law once both countries have complied with the entry-into-force provisions.

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<sup>8</sup>Article 26 (Exchange of Information and Administrative Assistance) of the 2006 U.S. Model Tax Convention can be found in app. II.

<sup>9</sup>For purposes of this report, we refer to countries and other foreign jurisdictions with which the United States has any type of agreement to exchange information as "treaty partners."

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MLATs create a routine channel for obtaining a broad range of legal assistance for criminal matters. Like tax treaties, MLATs are treaties that require the advice and consent of the Senate. MLATs are negotiated by the DOJ in cooperation with the Department of State. Unlike the information obtained through tax treaties and TIEAs, which authorize the exchange of information for tax purposes, MLATs authorize the exchange of information for criminal matters, which can include criminal tax matters.<sup>10</sup>

Information shared through exchange of information and information about such exchanges is confidential and protected by domestic laws and provisions contained in tax treaties and other such agreements. The Internal Revenue Code (IRC) protects information exchanged under tax treaties and other relevant agreements from disclosure in the same manner as information obtained under domestic laws except in specific circumstances, such as to courts and administrative bodies. The identity of taxpayers, information about those taxpayers, and the identity of the countries involved in the exchange of information are protected from public disclosure.<sup>11</sup>

#### Delegation to Competent and Central Authorities

Tax treaties, TIEAs, and MLATs require that both the United States and its treaty partners designate and authorize an entity within their respective governments to interpret agreement provisions and disclose information. Tax treaties and TIEAs commonly refer to these entities as “competent authorities” or “taxation authorities,” while MLATs refer to these entities as “central authorities” or “competent authorities.” For information exchanges under tax treaties and TIEAs, the Secretary of the Treasury is the competent authority. For administrative purposes, the authority to exchange information with other tax authorities has been delegated to the IRS Deputy Commissioner (International), Large Business and International Division.

All exchanges of information under an agreement involving the United States must occur through formal channels established between the

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<sup>10</sup>Information exchanged under tax treaties and TIEAs may be used in either criminal or civil tax matters.

<sup>11</sup>26 U.S.C. § 6105. See also, *Tax Analysts v. Internal Revenue Service*, 217 F. Supp. 2d 23, 28 (D.D.C. 2002) (citing *Tax Analysts v. Internal Revenue Service*, 152 F. Supp. 2d 1, 11 (D.D.C. 2001)).

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## Types of Exchange of Information

United States and treaty partner competent or central authorities. Exchanges that occur within these formal channels restrict the disclosure of tax information. Also, some foreign governments may restrict foreign tax authorities from conducting investigative activities within their borders.

*Specific exchanges of information* are those in which information is provided by one jurisdiction after it is requested by a partner jurisdiction in the context of a specific audit or investigation. From the U.S. perspective, requests for specific exchange of information are *incoming or outgoing*. When a treaty partner submits a request for specific exchange of information to the United States, these foreign initiated requests are called *incoming* requests for specific exchange of information. Conversely, when the United States initiates a request for specific exchange of information, that request is referred to as an *outgoing* request for specific exchange of information.

Treaty partners may also exchange information with one another without a request. For example, tax administration officials may come across information about a taxpayer that officials believe could be of interest to tax administration and compliance officials in another country. The competent authority may then send this information to the treaty partner's competent authority through what is referred to as a *spontaneous exchange of information*.

Treaty partners may also exchange information with one another on a regular or routine basis, through what is referred to as an *automatic exchange of information*. Such exchanges typically involve the voluntary exchange of information on multiple taxpayers, and cumulatively can include millions of records. For example, a country may routinely provide information on domestic dividends paid to foreign citizens. Automatic exchanges of information are similar to spontaneous exchanges because they are not associated with a formal, one-time written request for information on a specific taxpayer or taxpayers.

The United States also exchanges information with treaty partners through the Simultaneous Examination Program (SEP) and Simultaneous Criminal Investigation Program (SCIP). SEP/SCIP is used in situations where the United States and a treaty partner have common issues concerning the examination or investigation of a taxpayer or related taxpayers. Officials meet to discuss audit plans, information requirements, and other issues related to the examination or investigation. Treaties also allow broad-based discussions on matters such as tax administration trends, operating practices, and tax matters related to particular economic

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sectors. In the United States, these exchanges are referred to as *industrywide exchanges of information*. According to IRS officials, industrywide exchanges are rare and do not involve sharing information about specific taxpayers.

While the provisions of most tax treaties and relevant agreements are broad enough to permit the exchanges of information previously described, specific exchanges of information are the only type of exchanges that the United States and its treaty partners are obligated or required to do under the terms of these agreements. Therefore, the administrative processes and much of the data presented in later sections of this report will focus on the activity occurring through specific exchanges of information.

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### Administrative Procedures for Processing Specific Exchanges of Information

All administrative activities associated with processing incoming and outgoing requests for specific exchanges of information are handled by IRS Tax Attachés or EOI/OO staff located in one of the agency's civilian posts of duty or in Washington, D.C. IRS has four overseas posts of duty located in Europe and Asia and one domestic duty post in Plantation, Florida. Each foreign duty post is headed by a Tax Attaché and the domestic post is headed by a Revenue Service Representative (RSR). Tax Attachés, RSRs, and EOI/OO headquarters staff are responsible for ensuring that the incoming and outgoing requests pertaining to their designated jurisdictions meet agreement standards and are processed in a timely manner. Requests for information involving Australia, Canada, France, Japan, and New Zealand are processed through EOI/OO in Washington, D.C.

Incoming requests for information are assessed by the relevant Tax Attaché, RSR, or headquarters staff to ensure that they comport with the agreement in place with the country and with U.S. laws. All incoming requests must specifically include (1) the identity of the taxpayer about whom the information is being requested,<sup>12</sup> (2) an itemized list of all the information requested, (3) a detailed explanation of relevance of the

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<sup>12</sup>The term taxpayer refers to any person or ascertainable group of persons under examination or investigation. This applies to both incoming and outgoing requests. How persons or groups of persons are identified in information exchange requests is discussed in more detail in the section of this report titled, "Tax Treaties and TIEAs Have Common Principles, but Many Also Have Unique Provisions."

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information requested and the taxpayer and issue being examined, and (4) an explanation of how the information that is being requested relates to the taxes or liabilities covered by the agreement authorizing the exchange. To ensure that these requirements are met, IRS personnel are required to complete a checklist for each incoming request for information. IRS officials stated that they do not fulfill requests for information they deem to be inadequately supported, and will frequently ask the relevant treaty partner to provide additional details to support the request. Incoming requests that meet the specified standards are typically forwarded to other business operating divisions within the IRS, which then assign the request to appropriate examiners or revenue agents to obtain the information. The information obtained to meet the request, or a determination that the requested information is not obtainable, is passed back to EOI/OO staff that then send the response to the requesting jurisdiction.

A similar IRS process is used for U.S.-initiated, outgoing requests for information. EOI/OO receives requests for information from IRS or DOJ field staff, and passes the requests along to Tax Attaché, RSR, or EOI/OO staff. The staff evaluate the request to ensure that it includes all of the information that the treaty partner will need, including

- the name and address of the taxpayer under examination or investigation, when it is known;
- the type of tax and tax years (whether calendar or fiscal) involved;
- general case information to establish that a tax examination or investigation is being conducted;
- the location of the information and an explanation as to why the information is believed to be in the country from which the information is being requested;
- the specific information needed and how the information is relevant to the investigation;
- the date by which the information is needed (can include statute of limitations<sup>13</sup> or court dates); and

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<sup>13</sup> In most cases, the law gives IRS 3 years from the date a taxpayer files a tax return to complete an examination and make an assessment of any additional tax. This statute of limitations for assessments is in effect for all examinations with exceptions allowing longer periods for certain taxpayer actions or omissions such as fraud or substantial understatement of gross income (in excess of 25 percent of the amount of gross income stated on the return). In 2010, the statute of limitations was extended to 6 years for certain assessments with respect to assets held outside the United States. 26 U.S.C. § 6501.

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- whether certified copies of the documents are required.

Although the international examiner, revenue agent, revenue officer, investigator, or attorney in charge of the original examination or investigation summarizes these details using a template developed by EOI/OO, the formal written request is prepared and transmitted to the treaty partner by the Tax Attaché, RSR, or EOI/OO staff assigned to the request.<sup>14</sup>

An interactive graphic illustrating the administrative process for incoming and outgoing specific exchanges of information is shown in figure 1. Process details can also be found in appendix III.

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<sup>14</sup>These procedures are set forth in a section of the Internal Revenue Manual. Treasury Department officials noted, however, that that section has not been updated since 2002 and does not reflect some recent procedural changes, including changes to the specificity of the information identifying the taxpayer under examination.

**Interactive graphic**

**Figure 1: Administrative Processes for Addressing Outgoing and Incoming Specific Requests for Information**

**Directions:**

 [Mouse over each participant below to read about each one's primary responsibilities](#)

 [Mouse over document icons !\[\]\(f4056bb2e5acf0a782fb9d812dad489d\_img.jpg\) below to see examples of information required for requests](#)

**Outgoing requests**



**Incoming requests**



Source: GAO analysis of IRS data.

<sup>a</sup>In some cases, participant may be Department of Justice (DOJ) Prosecutor or Investigator.



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EOI/OO procedures require that the Tax Attaché, RSR, or EOI/OO staff responsible for processing the outgoing request provide status updates to the person requesting the information every 60 days. After the information has been secured, the response is reviewed by the Tax Attaché, RSR, or EOI/OO staff responsible for processing the request and forwarded to the requester. When a treaty partner supplies only part of the information requested, the IRS official responsible for processing the request follows up with the treaty partner until all information requested has been secured, or until all attempts by the treaty partner to secure the information have been exhausted and it is determined that the information does not exist or cannot be obtained from the country. The Tax Attaché, RSR, or EOI/OO staff working the case will forward information to the requester as it is received.

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## Agreements That Authorize Exchange of Information between the United States and its Treaty Partners Differ in Content and Application

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### The United States Has 143 Information Exchange Agreements with 90 Treaty Partners

As of April 30, 2011, the United States had 143 bilateral agreements authorizing exchange of information with 90 treaty partners. These agreements include 58 tax treaties, 27 TIEAs, 49 MLATs plus 7 partial MLATs, and 2 MLAAs in force between the United States and foreign jurisdictions.<sup>15</sup> Another 12 instruments (7 tax treaties, 2 TIEAs, and 3 MLATs), all incorporating tax information exchange, were signed but were

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<sup>15</sup>Partial MLATs, which are bilateral agreements implementing the terms of the U.S.-European Union MLAT, provide for the exchange of certain bank information and mutual assistance to administrative authorities.

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not in force as of that date.<sup>16</sup> See appendix IV for a list of all income tax treaties, TIEAs, and MLATs in force as of April 30, 2011. Agreements signed but not in force are also listed in appendix IV.

Of the 90 treaty partners, 7 were located in the Africa and Middle East regions, 12 in the Americas region, 18 in the Asia-Pacific region, 16 in the Caribbean region, and 37 in the Europe region. See figure 2 for an interactive graphic showing the different agreements that the United States has with its foreign partners, including a map for each agreement type.

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<sup>16</sup>Agreements do not enter into force until they are properly ratified, which may require additional steps by the treaty partners beyond signature, such as obtaining the advice and consent of the Senate in the case of treaties for the United States.

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**Interactive graphic**

**Figure 2: Bilateral Tax Information Exchange Partnerships Between the United States and Other Countries, April 2011**

[Click→] on tax information exchange agreements on the right to see each one's geographical distribution



Sources: GAO analysis of data from Thomson Reuters, Government Printing Office (GPO), LexisNexis, and the Department of State; Map Resources (map).

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The number of bilateral instruments involving the United States does not match the number of tax information exchange relationships the United States has with foreign partners. For example, the United States has an MLAT with Uruguay, but that MLAT does not allow for assistance related to tax offenses unless they pertain to other crimes. Since the United States has no other instrument with Uruguay, tax information is not exchanged with that country except if the tax offense relates to the concealment of income obtained from another crime covered by the treaty. Therefore, Uruguay is not counted as an exchange partner. At the same time, multiple partners may be signatories to a single instrument. For example, the United States has an MLAT with four countries of the Eastern Caribbean States Organization, which provides a basis for its tax information exchange relationships with Antigua and Barbuda, Dominica, Grenada, and St. Lucia.<sup>17</sup>

The terms of an agreement may specifically include or exclude an associated territory. For example, the U.S.-Australia income tax treaty includes Australia's territories of Norfolk Island, Christmas Island, Cocos (Keeling) Islands, Ashmore and Cartier Islands, and the Coral Sea Islands, while the U.S.-Denmark income tax treaty terms exclude the Faroe Islands and Greenland. A territory may also be included in one agreement and excluded in another. For example, the U.S.-United Kingdom MLAT extends to the Isle of Man (a dependency of the British Crown), but the territory is excluded from U.S.-United Kingdom income tax treaty. Since the United States also has a unique TIEA with the Isle of Man, it is counted as a separate foreign treaty partner.

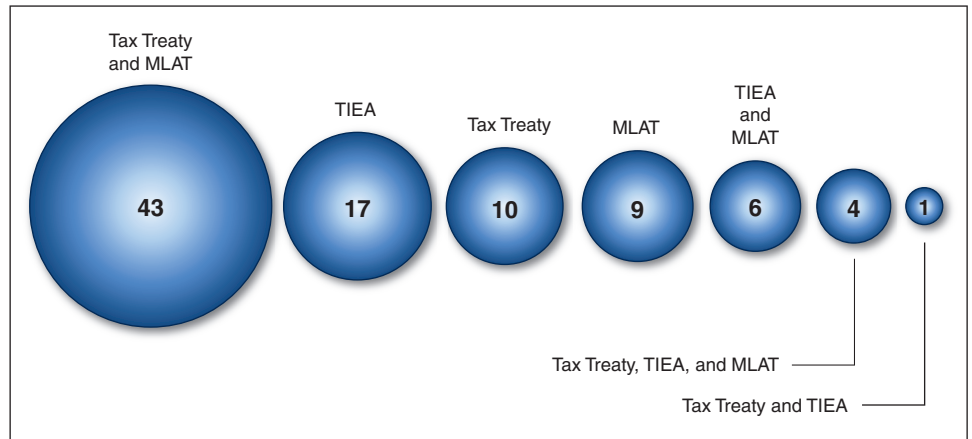
Tax information exchange relationships may be created by a single instrument or by multiple instruments of different types. Figure 3 shows the numbers of foreign treaty partners with which the United States has different combinations of agreements.<sup>18</sup>

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<sup>17</sup>In addition to the MLAT, the United States also has TIEAs with Antigua and Barbuda, Dominica, Grenada, and St. Lucia. IRS lists the St. Lucia TIEA as "nominally in force" because implementing legislation has not been enacted by the St. Lucia government.

<sup>18</sup>As previously discussed, the number of agreements and the number of partners does not match because the United States has more than one agreement with some partners.

**Figure 3: Numbers of Treaty Partners with Different Combinations of Agreements in Force That Authorize Tax Information Exchange**



Sources: GAO analysis of data from Thomson Reuters, Government Printing Office (GPO), LexisNexis, and The Department of State.

### Tax Treaties and TIEAs Have Common Principles, but Many Also Have Unique Provisions

All U.S. tax treaties (with information exchange provisions) and TIEAs currently in force obligate the United States and its treaty partners to exchange certain information upon request. In general, the text of tax treaties and TIEAs is written broadly, allowing for specific, automatic, and spontaneous tax information exchanges. Treasury Department officials told us that the starting point for new agreements and renegotiations is generally the most recent U.S. Model Tax Convention in use by the United States. Department of the Treasury officials also noted that the policies embodied in the most recent Model Tax Convention may evolve after the publication of the document, therefore changes in policy may not be documented until the publication of an updated model convention. The language of particular agreements and the terms governing each bilateral relationship can vary significantly from agreement to agreement, depending on when the agreement was negotiated and what the two countries agree to.

Tax treaties with information exchange articles and TIEAs create, at a minimum, the obligation for exchange partners to respond to permitted requests for information. Fifty-eight treaties and 12 TIEAs explicitly describe a standard for the relevance or necessity of the information allowed to be requested. The standard found in the 2006 U.S. Model Tax Convention is that information that “may be relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes of every kind” is to be exchanged upon request,

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which mirrors the statutory standard governing IRS's authority to access records in a domestic context.<sup>19</sup> Some agreements use a variation of the standard, however, such as "foreseeably relevant," "as is necessary," "as is relevant," or "as is pertinent." The "may be relevant" standard and the "foreseeably relevant" standard—regarded as equivalent by the U.S. government—are considered a lower bar than some other standards.

The 2006 U.S. Model Tax Convention technical explanation cites a U.S. Supreme Court case<sup>20</sup> and states that the "may be" language "would not support a request in which a Contracting State simply asked for information regarding all bank accounts maintained by residents of that Contracting State in the other Contracting State, or even all accounts maintained by its residents with respect to a particular bank." This means that, as a general rule, the United States does not make requests or respond to requests under these agreements where the names or other identifier (such as an account number) of potentially noncompliant persons are unknown. The information exchange provisions of TIEAs and bilateral tax treaties concluded by the United States require that a request for information satisfy a standard of relevance in order to be considered a valid request under the agreement. One of the requirements of the relevance standard is that requests contain "the identity of the person(s) under examination or investigation." During interviews, officials of the IRS and Treasury Department explained that the recent global recognition of the importance of full exchange of information for tax purposes has led countries to refine information exchange practices to ensure that exchange will occur to the widest appropriate extent, and that these topics are under active discussion at international standard-setting bodies such as the Organisation for Economic Co-operation and Development (OECD) and the Global Forum on Transparency and Exchange of Information that focuses on exchange of information issues. Accordingly, a valid request for information will not always require the name of particular taxpayers under examination or investigation. In addition, the Treasury Department's Technical Explanation of the 2009 protocol<sup>21</sup>

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<sup>19</sup>Section 7602 of the Internal Revenue Code authorizes IRS to examine any books, papers, records, or other data that may be relevant or material to an audit.

<sup>20</sup>*United States v. Arthur Young & Co.*, 465 U.S. 805, 814 (1984) (applying the "may be relevant" standard of section 7602 of the Internal Revenue Code in a domestic context).

<sup>21</sup>For the purposes of this report, we refer to all amendments to existing agreements as protocols.

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amending the 1996 bilateral tax treaty with Switzerland states the following: “In a typical case, information sufficient to identify the person under examination or investigation would include a name, and to the extent known, an address, account number or similar identifying information.” Moreover, IRS and Treasury Department officials explained that the template TIEA text used by the United States was changed in January 2011 to state that a request for information must contain “the identity of the person or ascertainable group or category of persons under examination or investigation.” It is mutually understood that there can be circumstances in which there is information sufficient to identify the person under examination or investigation even though the requesting state cannot provide a name. At the time that this study was conducted, however, the Internal Revenue Manual had not been correspondingly updated to reflect this clearer articulation of policy.

Some arrangements contain provisions that outline particular types of information-gathering measures beyond specific exchanges upon request. For example, the U.S.–Austria treaty explicitly states that “states shall spontaneously or upon request exchange information” and that “states may agree on information to be furnished on a regular basis.” Several other tax treaties state that exchange of information shall be on a “routine basis” or “upon request” with reference to particular cases.<sup>22</sup> Several TIEAs specifically provide for automatic and spontaneous exchange of information in addition to providing information upon request.<sup>23</sup> The presence of automatic or spontaneous exchange language in an agreement does not mean such exchanges necessarily happen, and the absence of such language does not mean automatic or spontaneous exchanges do not occur, as treaties and TIEAs are generally broad enough to permit such types of exchange.

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<sup>22</sup>Cyprus, Egypt, India, Indonesia, Morocco, Norway, the Philippines, Poland, Romania, and South Korea (the U.S.-Norway treaty only says that exchange of information shall be on a routine basis or upon request with reference to particular cases).

<sup>23</sup>Specific mention of automatic or spontaneous information exchanges does not appear in TIEAs signed after 1991.

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Certain limits to specific information exchange are common to most tax treaties and TIEAs.<sup>24</sup> Specifically, countries are not obligated to

- carry out administrative measures at variance with the laws and administrative practice of either contracting state (47 out of 67 tax treaties<sup>25</sup> and 24 out of 27 TIEAs);
- supply information that contracting states would not be able to obtain under their own laws (51 out of 67 tax treaties and 26 out of 27 TIEAs); or
- provide information that would disclose trade, business, industrial, commercial, or professional secret or trade-process or information that would be contrary to public policy of either contracting state (46 out of 67 tax treaties and 26 out of 27 TIEAs).

Additionally, all tax treaties with information exchange articles and all TIEAs contain disclosure provisions that protect the confidentiality of the information exchanged. Forty tax treaties and 12 TIEAs also state that an exchange partner may not decline a request simply because it may not need that information for its own purposes.<sup>26</sup> These agreements also contain provisions that obligate the requested state to use its information-gathering measures to obtain the requested information even though it may not need that information for its own purposes.

While tax treaties and TIEAs share many common principles, many also contain unique features. For example, information exchange arrangements can cover different types of tax information. Twenty-seven tax treaties permit exchange of information in any case concerning U.S. federal taxes, 21 limit information exchange to cases concerning taxes described under the general scope of the convention, and 10 limit

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<sup>24</sup>According to the IRS, regardless of the language in the relevant agreements, the United States has a policy of not carrying out administrative measures at variance with the laws and administrative practice of either contracting state, not supplying information that contracting states would not be able to obtain under their own laws, and not providing information that would disclose trade, business, industrial, commercial, or professional secret or trade process, or information that would be contrary to the public policy of either contracting state.

<sup>25</sup>The 67 tax treaties referred to here include the 58 treaties with information exchange provisions discussed earlier in this section and the treaty with the former Soviet Union, which now covers nine countries and does not include an information exchange provision.

<sup>26</sup>A treaty partner may still provide information in the absence of such a provision even if the information is not needed for its own purposes.



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exchange to cases concerning specific taxes or apply other restrictions. All U.S. TIEAs cover exchanges on all U.S. federal taxes, although most specifically state that they do not cover state and local taxes or taxes levied by political subdivisions. Eighteen treaties and 23 TIEAs also expressly provide that an exchange partner cannot decline to share information because it is held by a bank or other financial institution, though the absence of such a provision does not mean that a treaty partner will decline to share such information. Five treaties specify that the requested state will allow representatives to interview individuals and examine evidence in the requested state, while 18 TIEAs include provisions to this effect. Two treaties—with Canada and the Netherlands—have provisions within their exchange of information articles that specifically permit disclosure of information to an arbitration board. One agreement—the Panama TIEA—has a provision that “parties may exchange technical know-how, develop new audit techniques, identify new areas of non-compliance, and jointly study non-compliance areas.”

The focus of information exchange under MLATs is different than tax treaties and TIEAs. Assistance under a MLAT, including on tax matters, is generally only available for the investigation, prosecution, and prevention of criminal offenses or for proceedings related to criminal matters. MLATs may also explicitly state that no dual-criminality requirement exists for that MLAT. Dual-criminality is the requirement that the conduct in question be a crime under the domestic laws of both the requesting and requested state for assistance to be provided. In 25 MLATs there is a limited dual-criminality requirement, such as for any searches, seizures, or forfeitures. Where a dual-criminality requirement exists, whether or not assistance can be provided on tax matters depends, in part, on the domestic law of the other jurisdiction. MLATs also commonly provide grounds on which a request for information may be refused, but these grounds for refusal vary among agreements.

Appendix V provides detailed information on the contents of each of the agreements.

## Volume, Type, and Processing Time of Requests Varies

### Volume of Requests Made

IRS provided us with the number of new incoming and outgoing specific information exchange requests for the years 2006 through 2010. The number of incoming requests fluctuated over the 5-year period, ranging from a high of 1,173 requests in 2006 to a low of 797 in 2008. The number of outgoing requests also fluctuated during this period and ranged from a high of 236 requests in 2008 to a low of 165 in 2010. Table 1 provides the number of new incoming and outgoing requests for each year. Requests in this table include both closed requests and requests that were still open at the end of 2010.

**Table 1: Number of New Incoming and Outgoing Specific Information Exchange Requests, 2006-2010**

	2006	2007	2008	2009	2010	All
Incoming (foreign-initiated)	1,173	1,088	797	914	843	4,815
Outgoing (U.S.-initiated)	221	197	236	203	165	1,022
<b>Total</b>	<b>1,394</b>	<b>1,285</b>	<b>1,033</b>	<b>1,117</b>	<b>1,008</b>	<b>5,837</b>

Source: IRS.

The number of outgoing specific requests does not equal IRS's international enforcement presence or the number of U.S. taxpayers who have been the subject of IRS examinations. According to IRS and Treasury officials, one reason for this is that a single specific request for information from a treaty partner can involve multiple taxpayers. Also, an outgoing information exchange request typically comes after IRS has tried other means to obtain information, including a review of information received from treaty partners through automatic exchanges (approximately 2.1 million records about U.S. taxpayers are received annually by IRS, as discussed below) or through obtaining the information directly from the taxpayer or from third parties using other enforcement tools.

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## Volume and Type of Closed Requests

Between 2006 and 2010, the IRS closed 5,111 incoming and outgoing requests involving 75 treaty partners.<sup>27</sup> There were 4,217 foreign-initiated incoming requests, and 894 U.S.-initiated outgoing requests closed during this period. The number of closed incoming and outgoing specific requests between the United States and a single treaty partner varied widely, ranging from five treaty partners that had just 1 incoming or outgoing request during the period to a single treaty partner with 711 requests. Also, request activity is concentrated in a small number of countries, with the 10 most-active countries representing roughly 68 percent of all requests.

IRS provided us with data about the type of information that was requested in 3,569 exchanges (2,971 incoming requests and 598 outgoing requests between 2006 and 2009).<sup>28</sup> Corporate records, tax return data, and third-party interviews constituted about 78 percent of closed incoming requests for which we received data on information type. For outgoing requests, corporate records, tax return data, and bank records accounted for 77 percent of exchanges. Requests for bank records made up 6 percent of incoming exchange requests, but 21 percent of outgoing requests. Conversely, requests for third-party interviews were 20 percent of incoming requests, but only 6 percent of outgoing requests. Figure 4 shows incoming and outgoing requests by type of information that was requested for the 3,569 exchanges for which we received data on information type.

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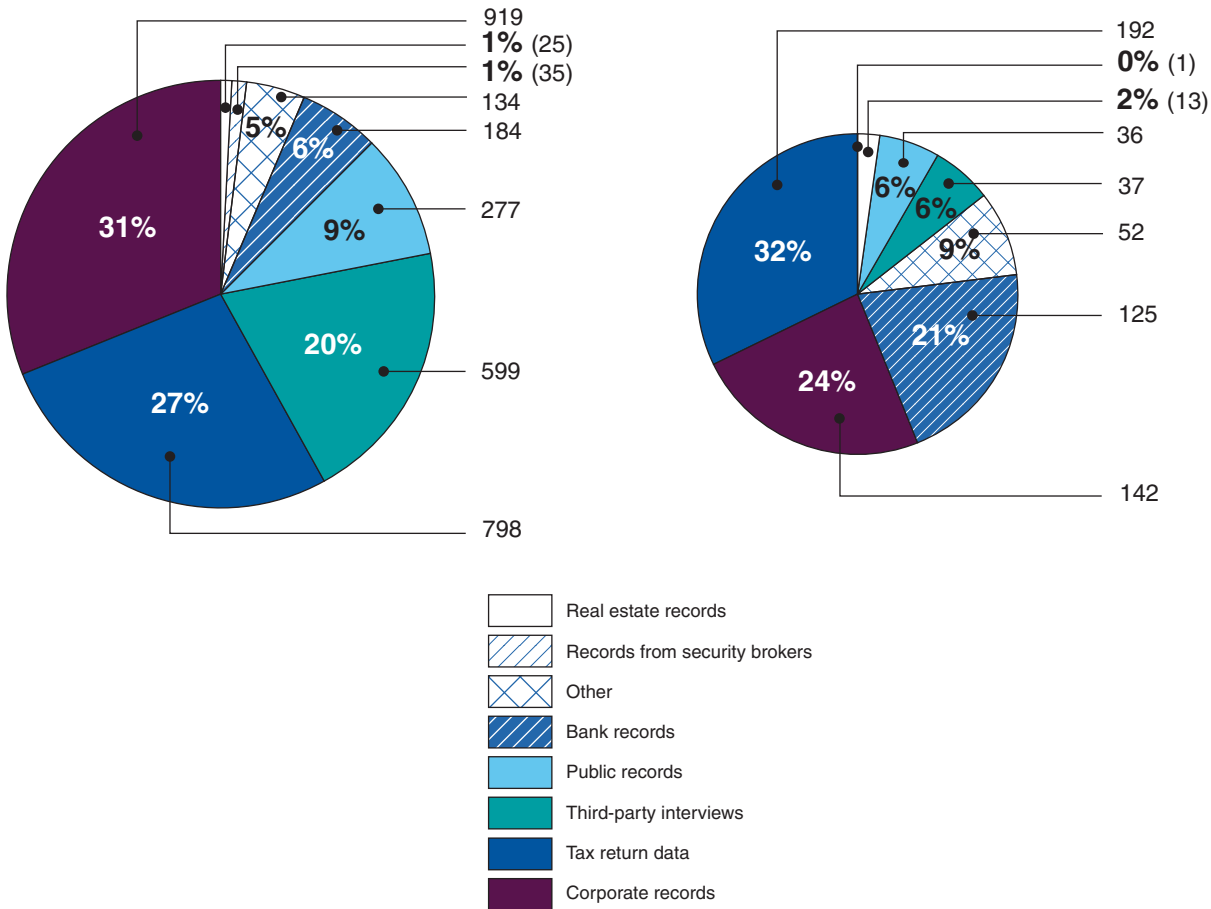
<sup>27</sup> Requests counted in this analysis, and in the remainder of this section, are incoming or outgoing requests made under tax treaty or TIEA authority that were initiated and closed between January 1, 2006, and December 31, 2010. We did not count requests that were initiated prior to 2006 but closed in 2006 or later. "Closed" means that either the requested information was received by EOI/OO and sent to the requestor (either domestic or foreign), or EOI/OO determined that the information could not be obtained. We also did not count requests initiated in the 2006-2010 period but still open at the end of 2010. The information exchange data provided by IRS and discussed in this report also included exchanges made under estate tax treaties, although IRS and Department of the Treasury officials told us that information exchange under these treaties is rare.

<sup>28</sup> According to EOI/OO officials, data on the type of information was captured in an earlier information system, but not captured in the system that came on-line in 2009. Although IRS recorded more than more type of information requested for a particular exchange, for this analysis, we used only data on the information type that IRS recorded first for each exchange.

**Figure 4: Distribution of Information Types Requested for 3,569 Requests with Available Data, 2006-2009**

2,971 incoming requests (foreign-Initiated)

598 outgoing requests (U.S.-initiated)



Source: GAO analysis of IRS data.

Note: Outgoing specific information exchange requests are a portion of IRS's international enforcement presence; IRS also uses other tools to obtain information about U.S. persons' offshore financial activity.

IRS also receives and provides information through automatic and spontaneous exchanges. According to EOI/OO officials, the United States is currently engaged in the automatic exchange of information with 25 countries, transmitting approximately 2.5 million records annually to other countries and receiving approximately 2.1 million records from its treaty partners. Through automatic exchange of information, the United States provides some treaty partners with information on taxable income and federal tax withholding related to certain types of income received by U.S.

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nonresidents.<sup>29</sup> IRS officials told us that the information that the United States receives through automatic exchange of information varies by treaty partner and includes data on wages, interest, dividends, and other forms of income.

Regarding spontaneous exchanges, the United States sends about 10 spontaneous exchanges of information to its treaty partners annually, according to EOI/OO officials. They also said that the United States receives around 300 spontaneous exchanges of information annually, mostly from developed countries with sophisticated tax systems, and that the number fluctuates widely from year to year. IRS officials stated that information the IRS receives spontaneously is processed by IRS Tax Attachés or EOI/OO staff located in one of the agency's posts of duty or in Washington, D.C. If the taxpayer is the subject of an ongoing examination, the information is forwarded to the appropriate IRS staff for possible action. If the taxpayer is not the subject of an ongoing examination, the information is evaluated to determine if there are tax consequences and whether or not a recommendation for action should be made to the appropriate field staff. Although Tax Attachés and EOI/OO staff evaluate and forward information to the appropriate field offices, agency officials stated that each office has its own business plan which may not include examinations based on spontaneously provided information. Consequently, these examinations would be worked on to the extent local offices consider them to be better opportunities than other cases they would work on using their discretionary audit authority.

Nevertheless, officials noted that spontaneous exchanges have led to some significant tax assessments, including several of \$100,000 or more. Taxpayers affected by spontaneous exchanges have at times alerted IRS to others who turned out to have significant additional tax liabilities. In at least some cases, IRS would not have known about the noncompliance in the absence of the spontaneously shared information.

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### Time Taken to Process Requests for Specific Exchange of Information

The amount of time that the United States and its treaty partners took to close specific requests for information, or processing time, varied widely for requests made between 2006 and 2010. During this period of time, the

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<sup>29</sup>Information automatically provided by the United States is from IRS Form 1042-S, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

number of calendar days to close both incoming and outgoing requests for information ranged from requests opened and closed on the same day to one request that took 1,442 calendar days to close. The United States tended to respond to requests for information faster than treaty partners responded to outgoing requests from the United States. The median number of calendar days to close U.S.-initiated outgoing requests was 149, compared to 108 calendar days for incoming requests.

To identify factors that could explain the differences in processing time, we considered the possibility that the type of information requested may be associated with the length of time taken to close the request. We found that, overall, processing times varied by the type of information requested. For all incoming and outgoing requests, processing times ranged from a median of 152 calendar days for requests involving bank records to 31 days for public records. Outgoing requests made by the United States to its treaty partners took longer to close than incoming requests for the same types of information for nearly all categories of information requested. Table 2 provides the processing times for all of the 3,569 requests where the type of information requested was recorded.

**Table 2: Processing Time for Closed Incoming and Outgoing Requests, by Information Category, 2006-2009**

	Incoming requests (foreign-initiated)		Outgoing requests (U.S.-initiated)	
	Percent of cases	Median time in days	Percent of cases	Median time in days
Bank records	6	142	21	191
Corporate records	31	142	24	156
Public records	9	24	6	158
Real estate records	1	104	2	207
Records from security brokers	1	128	0	103
Tax return data	27	46	32	100
Third-party interviews	20	141	6	147
Other	5	34	9	129
<b>All cases where information type is known</b>	<b>100</b>	<b>110</b>	<b>100</b>	<b>139</b>

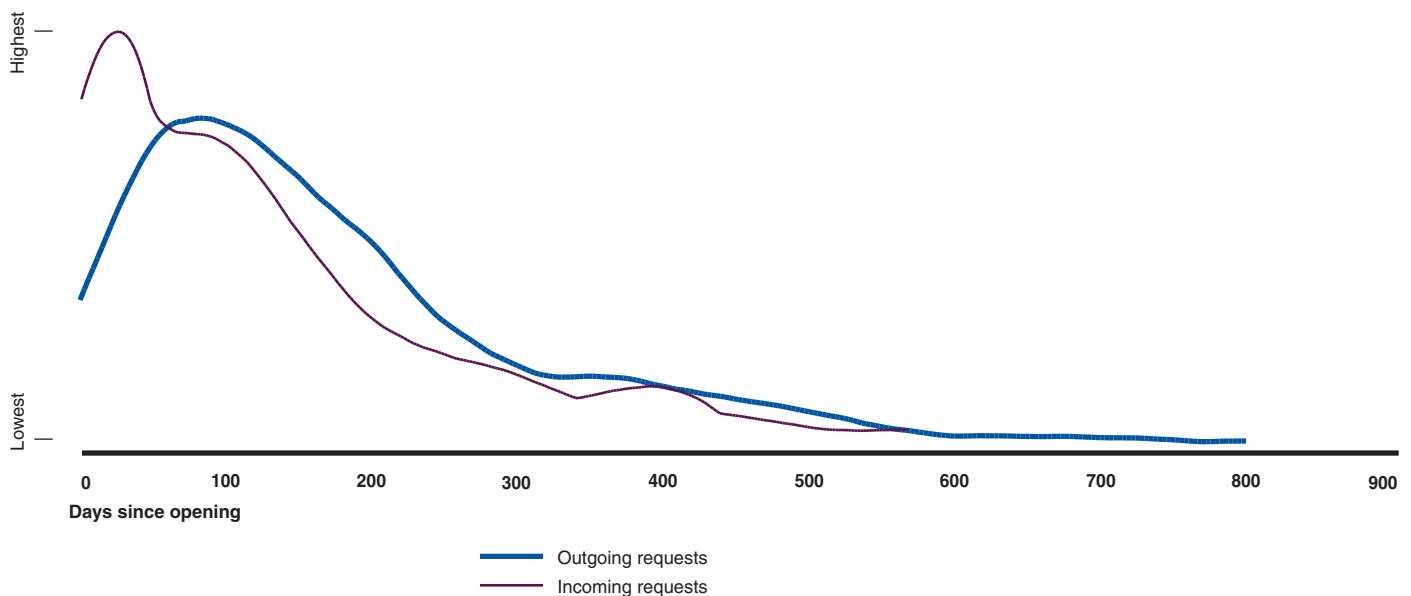
Source: GAO analysis of IRS data.

Because request processing times for different information types varies, we developed a statistical model to estimate the amount of time that a new request will take to close, holding the type of information requested constant. When controlling for information type, incoming requests to the

United States are processed an estimated 17 percent faster on average than outgoing requests from the United States to its treaty partners. As shown in figure 5, our model estimates that most information exchange requests are likely to close about 50 to 200 days after being opened, but some can take much longer.

**Figure 5: Estimated Probability That a Request Will Close at a Certain Time, 2006-2010**

Estimated probability that request closes



Source: GAO analysis of IRS data.

We also explored whether certain treaty partner characteristics were associated with processing times for incoming and outgoing requests. Assuming that treaty partners who share characteristics would respond to requests similarly, we developed five groups of treaty partners that shared a particular set of characteristics. These characteristics included (1) the type of agreements authorizing exchange of information with the United States, (2) the existence of active automatic exchange of information with the United States, (3) membership in the OECD, (4) implementation of OECD standards for improving transparency and establishing effective exchange of information in tax matters, and (5) trade volume with the United States. Descriptions of the treaty partner

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groupings that we identified and our hypotheses concerning potential factors that could explain differences in request processing times are summarized as follows:<sup>30</sup>

- **Agreement type**—Tax treaties have multiple purposes, including preventing double taxation and improving tax-law compliance through information exchange, while TIEAs are focused primarily on the exchange of information. Because a TIEA represents a particular commitment to information exchange, we considered the possibility that information exchange requests involving TIEA partners may be addressed more quickly than exchanges with partners with whom the United States does not have a TIEA.
- **Treaty partners that actively engage in automatic exchange of information with the United States**—As noted previously, the United States engages in automatic information exchange with 25 partners. The presence of an active automatic exchange of information arrangement with these countries signifies an agreement between the United States and its treaty partners to exchange information on a routine basis. Given the potential for IRS to leverage relationships established through the automatic exchange of information and the nature of information exchanged, we considered the possibility that specific-exchange requests may be addressed more quickly between the United States and these partners than with partners with whom the United States does not currently share information automatically. We also considered the possibility that automatic exchange may obviate the need for requests for information that IRS or treaty partner tax authorities have readily on hand, leaving a larger percentage of requests for information that take more time to obtain.
- **OECD Members and Nonmembers**—OECD member countries have established and committed to principles and standards of transparency and information exchange for tax purposes, as reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and Article 26 of the OECD Model Tax Convention on Income and on Capital. We considered the possibility that these shared principles related to information exchange, including standards for information availability and access, have contributed to faster

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<sup>30</sup>The countries in the groupings listed below are found in appendix VI. Automatic exchange partners are not listed because that information is confidential.



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request processing times between the United States and treaty partners who are members of the OECD than with partners who are not members of the OECD.

- **Trade Volume**—We considered the possibility that higher trade volume with the United States (imports and exports) could reduce the amount of time that it takes to address requests for information. Higher volumes of cross-border trade can present more opportunities for taxpayers in the United States and abroad to generate foreign-source income, and could indicate an established relationship between the United States and a treaty partner. Given these factors, we examined differences in specific exchange-request processing times between the top 25 U.S. trade partners (among U.S. treaty partners) and all other treaty partners.
- **Treaty Partner Implementation of International Tax Standards Related to Transparency and Effective Exchange of Information**—The international tax standards for improving transparency and establishing effective exchange of information in tax matters were developed by the OECD in cooperation with non-OECD countries and have been endorsed by other organizations in the international community (the United Nations and the Group of Twenty Finance Ministers and Central Bank Governors). The standards require jurisdictions to exchange information on-request in all tax matters for the purposes of administering and enforcing domestic tax law without regard to domestic tax interest or bank secrecy.<sup>31</sup> We considered the possibility that substantial implementation of these standards could contribute to faster request processing times, comparing request processing times for treaty partners that had substantially implemented these standards with those that either had not substantially implemented these standards or were not included in the OECD review of transparency and exchange of information standards as of 2006 (the beginning of our evaluation period).

Using statistical models, and controlling for information type, we compared how processing times for both incoming and outgoing requests

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<sup>31</sup>Of the jurisdictions that we identified as U.S. treaty partners, the OECD determined that 32 had substantially implemented the OECD international tax standards, as of 2006. An additional 29 jurisdictions had committed to but had not substantially implemented the standards, as of 2006. Twenty-eight U.S. treaty partners were not part of the OECD survey.

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differed across the previously described treaty partner groupings. Table 3, provides estimates of the percentage difference in average processing time between incoming and outgoing requests, adjusted for information type, along with 95 percent confidence intervals. After adjusting for the type of information requested, we found no statistically significant difference in processing times for outgoing requests. For example, our model estimates that countries with TIEAs responded to outgoing U.S. requests 5 percent faster than countries without TIEAs, but the difference could range between 14 percent slower and 28 percent faster. This indicates that there is no observable difference between countries with and without TIEAs. The relatively smaller number of outgoing requests tends to increase our uncertainty about the differences across groupings. Fewer opportunities to observe the processing of requests typically produces larger confidence intervals.

Our analysis of the time it takes the United States to respond to incoming requests found that, adjusted for information type, statistically meaningful differences were present among the country groupings, as shown in table 3. The United States responds to information requests from treaty partners with TIEAs significantly faster than to countries without TIEAs, suggesting that the focus on tax information exchange represented by the signing of a TIEA may make a difference in processing time. Response times by the United States for requests from countries with which automatic information exchange is taking place are significantly slower than response times for incoming requests from countries with which automatic information exchange is not taking place. This suggests that automatic exchange may be taking care of simpler requests leaving a larger body of more complicated, time-consuming requests to be handled through specific exchange cases. The United States also responds more quickly to requests from OECD members than to other countries, suggesting that the explicit commitment and common standards between the United States and these countries may make a difference in the time it takes the United States to respond to requests from OECD countries.

For countries that have implemented the international transparency and information exchange standards, we considered the possibility that response times would be faster for countries that have implemented the standards, but instead we found that the U.S. response time to incoming requests from these countries was between 25 and 57 percent slower than the U.S. response to countries that had either not substantially implemented the standards or had not been evaluated. In analyzing the time it takes the United States to respond to requests from the top 25 U.S. trading partners, we considered the possibility that higher volumes of

trade would indicate more established relationships between the United States and these countries and faster response times. Instead we found that the U.S. response time to requests from top trading partners was significantly slower. U.S. response times were between 63 and 96 percent slower for requests from top trading partners than from other countries, after adjusting for information type.

**Table 3: Model Estimates of Country Group Differences in Average Request Processing Time for Closed Cases, 2006-2010**

Treaty partner group	Compared to	Percent difference in processing time and confidence intervals, controlling for information type	
		Incoming requests (foreign-initiated)	Outgoing requests (U.S.-initiated)
Treaty partners that have a TIEA in force with the United States	Treaty partners that <u>do not</u> have a TIEA in force with the United States	<b>44 percent faster</b> [-50, -38]	5 percent faster [-14, 28]
Treaty partners with an active automatic exchange agreement	Treaty partners that <u>do not</u> have an active automatic exchange agreement	<b>45 percent slower</b> [29,60]	7 percent faster [-24,12]
Treaty partners that are members of the OECD	Treaty partners that <u>are not</u> members of the OECD	<b>24 percent faster</b> [-33,-15]	4 percent faster [-22, 18]
Treaty partners that had implemented the international tax standards, as of 2006	Treaty partners that <u>had not</u> implemented the international tax standards, as of 2006 or those partners that <u>were not</u> reviewed	<b>41 percent slower</b> [25,57]	15 percent faster [-31,6]
Treaty partners that are among the top 25 U.S. trade partners	Treaty partners that <u>are not</u> among the top 25 U.S. trade partners	<b>80 percent slower</b> [63, 96]	16 percent slower [-4, 42]

Source: GAO analysis of IRS data.

Note: 95 percent confidence intervals are in brackets. If we analyzed many additional samples of IRS data, the estimated group differences would range from the smaller number in each bracket to the larger number 95 percent of the time. Bold text indicates that the difference between groupings is statistically distinguishable from zero. Also, the estimated differences between treaty partner groupings in this table reflect factors that we could not analyze, such as the prevalence of request activity for specific countries in any of the groupings. These unmeasured factors may contribute to the differences in processing times.

The unavailability of certain data to us for this analysis, particularly the details of specific requests, means that we are unable to analyze why the U.S. response time to requests might be slower for some types of countries. While the factors that we analyzed may contribute to differences in processing times among groups of treaty partners, other factors that we cannot analyze may be at work. For example, if a single country involved in a large portion of exchange activity had especially short or long response times, the presence of that country in any of the treaty partner groupings we analyzed could have a disproportionate influence on the estimated differences.

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Also, with respect to the processing time differences across the treaty partner groupings, IRS officials noted that country-specific factors, such as the sophistication or complexity of a country's tax rules and the existence of administrative arrangements such as automatic exchange arrangements, can influence the nature of the information requested and the amount of time required to obtain it. For example, developed countries (like many major U.S. trade partners) tend to have tax systems that are administered through a complex set of tax rules. Under these rules, taxpayers can use intricate tax avoidance or tax evasion strategies, which can lead to examinations of elaborate business relationships, involving one or more entities under the direct or indirect control of a taxpayer. Examinations of this nature can require large volumes of detailed information that can be difficult and time-consuming to obtain. Conversely, the information needs for countries with less complex tax rules tend to be straightforward, uncomplicated and require much less processing time for information requests. Similarly, officials stated that processing times for requests from countries with which the United States exchanges information automatically may take longer because the information requested is more complex and difficult to obtain than the information that is exchanged on a routine basis.

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### Fluctuations in Time to Fulfill Specific Exchange Requests and the Number of Requests Can Occur for a Variety of Reasons

Similar to processing time across groups of treaty partners, the time required to process a specific exchange varies by individual request. According to IRS and DOJ officials that we interviewed, some of these differences are attributable to factors such as the complexity of the information requested, whether requested information is already on-hand at the tax authority, and whether legal processes must be invoked to secure the requested information. Examples of factors raised in the interviews that can affect the time it takes another country to respond to U.S.-initiated requests are listed below. Officials we spoke to noted that some of these factors may also influence the length of time it takes the United States to respond to requests from other countries.

- Requests for complex information take more time to fulfill than requests for less complex information.
- Narrowly focused requests for information already reported to the tax authority of the treaty partner are usually quickly addressed because that information is readily available, while requests that require the government agency responding to the request to go to third-party record keepers often take more time and effort to address.

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- Requests that appear to officials in the foreign country to be inadequately supported or to not demonstrate “foreseeable relevance” to a case can require extensive follow-up between IRS and the exchange partner.
  - The laws of other jurisdictions have a big influence on the time required to fulfill a request. For instance, some jurisdictions’ bank secrecy rules involve a lengthy court process and possibly a petition to a national banking commission to secure information. Officials also told us that some jurisdictions may give priority to criminal matters, and may view tax matters as civil (as opposed to criminal) in nature.
  - The organizational structure of a partner jurisdiction’s exchange office can also influence response times, such as when requests are passed through multiple employees and levels of review.
  - Translation issues can also slow down the amount of time it takes to secure requests if officials in the requested country have to translate the request into or from English before it can be assigned to appropriate staff.

The volume of information exchange activity, especially outgoing requests from the United States, can be influenced by the time it takes for partner countries to respond to requests. We were told that officials consider the costs and benefits of making information exchange requests, including their expectations about the amount of time it will take the treaty partner to respond to the request. Over time, the IRS field staff and others who make requests for foreign information become more willing to request information where they expect to get the information they need in a timely manner. This is particularly true in cases where information has to be secured quickly because, for example, the statute of limitations period is coming to a close.

The relationship between competent authorities of the United States and a treaty partner can also influence the volume of exchange activity. An IRS official described a situation in which a country that received information from the United States subsequently made that information public, in violation of the agreement confidentiality provisions. When an IRS field staff person inquired about making a new request to the country that had not protected U.S. taxpayer privacy, he was told that his request could not be processed at that time because the disclosure issue had not yet been resolved. In another case, an official was informed by an EOI/OO point of contact that one of several requested countries was

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unlikely to comply with the request and therefore the request was not pursued with that country.

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## Improved Collection of Balanced Performance Data Could Help IRS Improve Administrative Processes and Program Outcomes for Exchange of Information

GAO guidance on internal controls<sup>32</sup> and numerous other GAO reports say that reliable performance information is a critical tool for managers to use to understand how well processes are working and to identify opportunities to improve those processes. Government Performance and Results Act of 1993 (GPRA)<sup>33</sup> guidance also states that balanced performance information can help managers measure or monitor program accomplishments and progress toward pre-established goals. The collection of balanced performance information should, amongst other things, address both *program outputs* (product or service delivery) and *program outcomes* (results of the product or services delivered).

Currently, the IRS collects performance information on the specific exchange of information program in two ways. For IRS, much of the performance information related to exchange of information is collected through an electronic information system called the Issue Management System (IMS). Implemented in October of 2009, IMS is a consolidated database that combines case-management data from multiple programs within the Large Business and International (LB&I) division to (1) support revenue agents in remote locations; (2) improve issue identification; (3) improve information tracking, reporting and sharing; and (4) capture data in support of performance assessment. According to EOI/OO officials, the information exchange-related data collected in IMS is used primarily as an inventory-management tool. They said that managers use the system routinely as new cases come in to make decisions about dividing up the new exchange request cases among the staff based on the staff members' inventory of open cases. The information collected in IMS also allows managers to monitor program output information such as how much program activity is occurring and the length of time it takes to close requests.

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<sup>32</sup>GAO, *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

<sup>33</sup>Pub. L. No. 103-62, 107 Stat. 285 (1993). GPRA was recently amended by the GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011).

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EOI/OO, however, does not currently use the system to collect performance outcome information such as whether IRS actually secured information from or was successful in providing information to U.S. treaty partners. An earlier system used by EOI/OO had a data field for noting that the requested information was provided. Managers told us, however, that it was not useful because it had a default setting of “no,” meaning that negative responses included cases where the staff person entering the data did not make any entry in that field. While the IMS system now in use does not include a field for noting if the requested information was obtained, IRS has deemed the collection of such information worthwhile in the past. Because the primary obligation of the competent authority is to exchange information for tax purposes, collecting information on the extent to which requests are fulfilled would provide managers with valuable information on program outputs.

IRS officials also said that they are not currently capturing or analyzing data on the type of information being requested in their information system which, as our analysis shows, may influence the time that it takes the United States and its treaty partners to respond to requests. Consequently, IRS managers may be missing opportunities to determine why certain countries are much slower than other countries to respond to some kinds of information requests and possibly take steps to work with those countries to improve response times. For instance, IRS might need to explain its requests differently for some countries or may have a basis for encouraging another country to streamline inefficient processes.

IRS also collects data on program performance from agency personnel who make requests for information through the Foreign Information Assistance Request Appraisal Questionnaire, though only rarely. The Appraisal Questionnaire includes a series of questions about the quality of their interactions with EOI/OO staff, usefulness of the information received, and other program outcomes. However, EOI/OO officials told us that fewer than 25 questionnaires were returned between 2006 and 2010. They said that the questionnaires are distributed to program customers with the bundle of information obtained by EOI/OO from the treaty partner, but that they do not usually follow up with customers when questionnaires are not returned.

In order to get a sense of how IRS and DOJ field staff perceive the process of obtaining information from other countries, we interviewed 27

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such staff who made specific requests for foreign information in recent years.<sup>34</sup> They described a variety of experiences with the process. Some of these officials told us about problems they encountered or ways that the program could have better helped their audits, investigations, collections activities, or court cases. For example, several said that they would have liked to have known more about the program and its operations prior to preparing their requests. Given the amount of time required to prepare information requests, other program users expressed interest in receiving more up-front guidance on how to prepare a request. Others expressed concern about the length of time required to obtain the information requested or the completeness and utility of the information received. Several of the staff we interviewed also noted how helpful and informative the Tax Attachés, RSRs, or EOI/OO staff that facilitated the process were.

Though collected infrequently, the use of the Appraisal Questionnaire by EOI/OO demonstrates that IRS has judged the collection of such performance information to be worthwhile. If EOI/OO routinely obtained information on, for example, the usefulness of its instructions to field staff or the timeliness of responses, managers would know how common such concerns may be among program users and might be able improve the exchange of information.

Furthermore, currently available data do not provide important outcome information on the program as a whole, such as the usefulness of specific exchanges to IRS tax compliance enforcement efforts. Such information could help identify opportunities to, for instance, better train IRS personnel on when and how to request foreign information and what types of information are most useful in resolving cases. To the extent that IRS would like to minimize the cost of collecting and analyzing information on program outcomes, the agency could consider using a sampling approach that would allow program managers to generalize the information collected from a smaller population of program users to the overall population of program users.

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<sup>34</sup>Some IRS officials were identified by randomly selecting exchange cases; the remaining IRS and DOJ officials were identified by their respective agencies. The information obtained through these interviews is only applicable to the experiences of the officials interviewed and cannot be generalized to the entire population of IRS and DOJ officials making requests through the IRS specific exchange of information program.



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## Conclusions

The United States has developed a broad information exchange network. While agreements have many similar features, the specific parameters under which information can be exchanged are unique to the legal and administrative arrangements negotiated by the United States and each separate treaty partner. The volume of information exchanges under these agreements and the amount of time required to process those exchanges varies, and may be influenced by several factors.

Although the IRS collects data on exchanges between the United States and its treaty partners, the agency does not assemble or make use of information such as the extent to which requests for information are fulfilled or the type of information requested, and does not consistently collect customer feedback. Without reliable and consistent data like these, IRS managers may be missing opportunities to identify and address possible problems with the information exchange program and improvements that could make the program more successful. Such information could tell program managers how well IRS is meeting its obligations as the U.S. competent authority and whether administrative processes and procedures need to be examined for ways to improve the transmission of information. Better performance information could not only help improve administrative operations, but could also enhance the usefulness of this important tax law enforcement tool.

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## Recommendation for Executive Action

To identify opportunities to improve the administrative processes and procedures that the IRS uses to exchange information between the United States and its treaty partners, we recommend that the Commissioner of Internal Revenue determine the key types of information that exchange program managers could use to ensure the program is working as well as possible. The commissioner should specifically require the collection of (1) consistent and accurate data on specific tax information exchange cases, such as the extent to which requests for information are satisfied and the type of information requested, and (2) feedback from information exchange program users on how well the program is working and how it might be improved.

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Secretary of the Treasury, the Commissioner of Internal Revenue, the Secretary of State, and the Assistant Attorney General for Administration Department of Justice. We received written comments from the Deputy Commissioner for Services and Enforcement of the Internal Revenue Service (IRS); his comments are reprinted in appendix VII. The Secretary of the Treasury, the

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Secretary of State, and the Assistant Attorney General for Administration Department of Justice did not provide written comments. The Department of the Treasury, IRS, and the Department of Justice also suggested several technical changes to the report, which we incorporated where appropriate.

The IRS agreed with our observation that opportunities exist to improve information exchange between the United States and its treaty partners through improved collection of performance data and information exchange program user feedback. The IRS also agreed with our recommendation that the IRS identify key types of information that exchange program managers could use to ensure that the program is working as well as possible, including consistent and accurate data on specific tax information exchange cases and feedback from information exchange program users.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of the Treasury, the Secretary of State, the Attorney General of the United States, the Commissioner of Internal Revenue, and other interested parties. This report will also be available at no charge on GAO's website at <http://www.gao.gov>. If you or your staff have any questions about this report, please contact me at (202) 512-9110 or [brostekm@gao.gov](mailto:brostekm@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VIII.



Michael Brostek  
Director, Tax Issues  
Strategic Issues

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# Appendix I: Scope and Methodology

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This report (1) identifies all bilateral income tax treaties, Tax Information Exchange Agreements (TIEA), and Mutual Legal Assistance Treaties (MLAT) between the United States and other countries in force, proposed, or signed as of April 30, 2011, and describes the legal framework and administrative processes that the United States uses to exchange information with its treaty partners; (2) describes the volume and types of information exchanged between the United States and its treaty partners and the time to process requests for information; and (3) identifies opportunities to improve the effectiveness of current U.S. information exchange processes and procedures.

To develop a comprehensive list of countries with which the United States has entered income tax treaties, TIEAs, and MLATs, we examined information obtained from a combination of government and commercially available data to identify agreements that were in force, proposed, or signed as of April 30, 2011. Specifically, we relied on information obtained from *Treaties in Force*—a compilation of international agreements between the United States and other countries published by the U.S. Department of State, *U.S. Tax Treaties* (Publication 901) published by the Internal Revenue Service (IRS), the Government Printing Office (GPO) website, Thomson Reuters's *Checkpoint*, and *Lexis Nexis*. For each agreement, we identified the name of the country with which the United States entered into the agreement, the year the agreement was signed, the year the agreement entered into force, and the date the provisions of the agreement were made effective (when provided). For tax treaties, we identified the article within the agreement authorizing information exchange. Where applicable, we also recorded the year of any revisions made to the original agreement, and the effective date of the most recent protocol or other such amendment to the agreement. We consulted with knowledgeable officials at the U.S. Department of State, Department of the Treasury, IRS, and the Department of Justice to ensure the completeness and accuracy of the consolidated list we developed from these sources.

To describe the legal framework for information exchange, including the types of information covered and limitations on information, we systematically analyzed the information exchange provisions contained in all of the income tax treaties, TIEAs, and MLATs that were in force as of April 30, 2011. For income tax treaties, we compared the information exchange provisions in each agreement to key information exchange

provisions contained in the 2006 U.S. Model Tax Convention of November 15, 2006.<sup>1</sup> We conducted similar content analysis for TIEAs, by analyzing similarities and differences in the information exchange provisions across the agreements identified. We analyzed each MLAT to determine the extent to which the agreements permit assistance in investigations involving criminal tax matters and limitations on such assistance.

To describe the administrative processes that the United States uses to exchange information with its treaty partners, we reviewed guidance contained in policy documents such as the IRS Internal Revenue Manual and the Department of Justice Criminal Tax Manual. From this guidance we also identified the general procedures that the United States uses to exchange information, including the U.S. departments and agencies involved and paperwork requirements. We also examined user guides for the information systems used to collect data on information requests. We interviewed knowledgeable officials in the Department of the Treasury, the IRS, and the Department of Justice to further understand the role of these agencies and any process or procedural requirements for administering information exchange between the United States and its treaty partners.

To develop summary information on the volume of incoming and outgoing requests for information, processing times, and other characteristics of requested exchanges under the authority of income tax treaties and TIEAs, we analyzed IRS data on all exchange requests that were initiated and completed between January 1, 2006, and December 31, 2010. The information exchange data provided by IRS and discussed in this report also included exchanges made under estate tax treaties, although IRS and Department of the Treasury officials told us that information exchange under these treaties is rare. The information developed only applies to exchanges occurring during this period and cannot be generalized to exchanges occurring outside of this time frame. Because the information exchanged under income tax treaty, TIEA, and MLAT authority is protected by confidentiality provisions contained in the agreements and by U.S. domestic law, we did not have access to data that could reveal the identity of individual taxpayers or individual treaty

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<sup>1</sup>According to Department of the Treasury officials, the 2006 model was the most recently published model income tax convention or treaty in existence for the United States when we did our review.

partners. Therefore, we relied on anonymous country codes assigned by IRS and treaty partner groupings that we developed in consultation with IRS to examine the exchange activity between the United States and its treaty partners. To assess the reliability of these data, we interviewed knowledgeable officials, reviewed system documentation, and examined the data for obvious errors. We determined the data to be sufficiently reliable for this report.

We used statistical models to estimate the difference in closing times among various groups of requests, holding constant the type of information requested. These “duration” models apply only to requests initiated and closed between January 1, 2006, and December 31, 2010. Our data exclude requests that were open at the end of this period, “and IRS could not provide the type of information requested for 1,542 out of 5,111 requests. Our models assumed that most requests close quickly, while a few requests remain open for longer periods of time. This assumption was reasonable, given the actual number of requests that closed at various times in this period.<sup>2</sup> The models made different assumptions about how the mean closing time varied across the groups of interest, such as incoming versus outgoing requests for various types of information.<sup>3</sup> This allowed us to estimate the proportional differences across groups while holding constant the type of information requested, along with the statistical certainty of the estimates.

To identify ways in which the United States can enhance the effectiveness of its administrative practices for sharing information with foreign jurisdictions, we interviewed and collected information from IRS, Justice, and OECD officials and assessed the information obtained against criteria contained in GAO guidance on internal controls and performance measurement. IRS and the Department of Justice provided us the names of officials who had requested information in 2009 and 2010 for use in criminal and civil investigations or cases, and we

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<sup>2</sup>Specifically, the models assumed that the closing times were gamma-distributed, consistent with nonparametric estimates of the density and survival functions showing that the distribution was single-peaked and positively skewed.

<sup>3</sup>One model assumed that the expected closing time was equal to a linear combination of variables indicating membership in the group of interest, such as incoming versus outgoing, and the type of information requested. Another model estimated the interactive linear combination of these variables to examine how the difference in closing time between groups varied by type of information.

interviewed 6 IRS and 12 DOJ officials identified in this way. We also selected 11 additional IRS officials to interview using a nonprobability sampling technique, through which we randomly selected at least one exchange case from each of the exchange groupings discussed in the section of this report titled “Volume, Type and Processing Time of Requests Varies,” and asked EOI/OO to provide contact information for the officials involved in the cases. The staff person responsible for two of our randomly selected cases was also on the list of names that IRS had previously provided to us. The total number of IRS and DOJ staff who had made information exchange requests that we interviewed was 27. The information obtained through these interviews is only applicable to the experiences of the officials interviewed and cannot be generalized to the entire population of IRS and DOJ officials making requests through the IRS-specific exchange of information program.

We conducted this audit from January 2010 to September 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Article 26 (Exchange of Information and Administrative Assistance) of 2006 U.S. Model Tax Convention

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The provisions of Article 26 of the 2006 U.S. Model Tax Convention serve as the basis for information exchange in new tax treaties. The article's provisions are reprinted below.

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**Table 4: Article 26 of 2006 U.S. Model Tax Convention**

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Art. 26 (1)	The competent authorities of the Contracting States shall exchange such information as may be relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes of every kind imposed by a Contracting State to the extent that the taxation thereunder is not contrary to the Convention, including information relating to the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, such taxes. The exchange of information is not restricted by paragraph 1 of Article 1 (General Scope) or Article 2 (Taxes Covered).
Art. 26 (2)	Any information received under this Article 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 persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to above, or the oversight of such functions. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
Art. 26 (3) (a)	In no case shall the provisions of the preceding paragraphs be construed so as to impose on a Contracting State the obligation: to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
Art. 26 (3) (b)	In no case shall the provisions of the preceding paragraphs be construed so as to impose on a Contracting State the obligation: to supply information that is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
Art. 26 (3) (c)	In no case shall the provisions of the preceding paragraphs be construed so as to impose on a Contracting State the obligation: to supply information that would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
Art. 26 (4)	If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitation be construed to permit a Contracting State to decline to supply information because it has no domestic interest in such information.
Art. 26 (5)	In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information requested by the other Contracting State because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.
Art. 26 (6)	If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings).
Art. 26 (7)	Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by the Convention from taxation imposed by that other State does not inure to the benefit of persons not entitled thereto. This paragraph shall not impose upon either of the Contracting States the obligation to carry out administrative measures that would be contrary to its sovereignty, security, or public policy.

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**Appendix II: Article 26 (Exchange of  
Information and Administrative Assistance) of  
2006 U.S. Model Tax Convention**

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Art. 26 (8)	The requested State shall allow representatives of the requesting State to enter the requested State to interview individuals and examine books and records with the consent of the persons subject to examination.
Art. 26 (9)	The competent authorities of the Contracting States may develop an agreement upon the mode of application of this Article, including agreement to ensure comparable levels of assistance to each of the Contracting States, but in no case will the lack of such agreement relieve a Contracting State of its obligations under this Article.

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Source: Department of the Treasury.



# Appendix III: Administrative Processes for Addressing Outgoing and Incoming Specific Requests for Information

An interactive graphic illustrating the administrative process for incoming and outgoing specific exchanges of information is also shown in figure 1.

<b>Outgoing requests</b>		
<b>Step 1</b>	<b>Outgoing memorandum must contain:</b>	<b>Outgoing attachment must contain:</b>
<p><b>IRS Revenue Agent or Examiner<sup>a</sup></b> A need for information is identified, a justification for the request is prepared, and a cover memorandum and attachment are sent to the U.S. competent authority.</p>	<ul style="list-style-type: none"> <li>- Name of taxpayer in question</li> <li>- Requester's name and phone number</li> <li>- Address or fax number where response should be sent</li> <li>- Any background information that should not be sent to foreign competent authority</li> <li>- Any statute, court, or other dates by which the information is required</li> <li>- Whether the request includes grand jury information</li> </ul>	<ul style="list-style-type: none"> <li>- Name and address of taxpayer in question</li> <li>- Type of tax and tax years involved (fiscal/calendar)</li> <li>- Evidence that an investigation is being conducted</li> <li>- Identification of location of information and why the United States believes it is in that location</li> <li>- Specific information needed</li> <li>- How information is relevant to the investigation</li> <li>- Any statute, court, or other dates by which the information is required</li> <li>- Any documentation certification requirements</li> </ul>
<p><b>Step 2</b> <b>U.S. Competent Authority</b> A formal request letter is prepared and sent to foreign competent authority.</p>		
<p><b>Step 3</b> <b>Foreign Competent Authority</b> A formal request letter is received and a formal response is prepared and sent back to the U.S. competent authority. A formal response may contain partial or complete information, or an explanation of why material cannot be obtained.</p>		
<p><b>Step 4</b> <b>U.S. Competent Authority</b> Information results are sent to IRS Revenue Agent or Examiner<sup>a</sup></p>		
<b>Incoming Requests</b>		
<b>Step 1</b>	<b>Incoming foreign requests must contain:</b>	
<p><b>Foreign Competent Authority</b> A request for information is sent to the U.S. competent authority.</p>	<ul style="list-style-type: none"> <li>- Specific identification of the taxpayer</li> <li>- Itemized list of specific information requested</li> <li>- A detailed narrative identifying the tax nexus of the relevance of the information sought to the taxpayer and the issues examined</li> <li>- An explanation of how the request for transactions, facts, or documents pertains to a tax or a tax liability covered by a tax treaty or a TIEA</li> </ul>	
<p><b>Step 2</b> <b>U.S. Competent Authority</b> A request is evaluated and the case is assigned to the appropriate division.</p>		
<p><b>Step 3</b> <b>IRS Revenue Agent or Examiner<sup>a</sup></b> If feasible, the requested information is obtained within 60 days and sent to the U.S. competent authority. Information results may consist of partial or complete information, or an explanation of why material cannot be obtained. If necessary, a status update is provided every 60 days until resolved.</p>		
<p><b>Step 4</b> <b>U.S. Competent Authority</b> A formal response is sent to the foreign competent authority.</p>		

Source: GAO analysis of IRS data.

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**Appendix III: Administrative Processes for  
Addressing Outgoing and Incoming Specific  
Requests for Information**

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<sup>a</sup>In some cases, participant may be Department of Justice (DOJ) Prosecutor or Investigator.

# Appendix IV: Income Tax Treaties, TIEA, MLAT, and MLAA between the United States and Foreign Jurisdictions as of April 30, 2011

<b>Algeria</b>		
Instrument type		Potential MLAT <sup>a</sup>
Signed		2010
Entered into force		n.a. <sup>b</sup>
Exchange of information		Yes
<b>Anguilla*</b>		
Instrument type		MLAT
Signed		Extended to Anguilla
Entered into force		1990
Exchange of information		No
Note: Anguilla is an insular area of the United Kingdom (U.K.). The U.S.-U.K. / Cayman Islands MLAT was extended to Anguilla in 1990. See Cayman Islands MLAT for additional details.		
<b>Antigua &amp; Barbuda</b>		
Instrument type	TIEA	MLAT
Signed	2001	1996
Entered into force	2003	1999
Exchange of information	Yes	Yes
Note: Antigua & Barbuda is a signatory of the Four Eastern Caribbean States MLAT.		
<b>Argentina</b>		
Instrument type		MLAT
Signed		1990
Entered into force		1993
Exchange of information		Yes
Note: A U.S.-Argentina income tax treaty was signed in 1981 that is not in force.		
<b>Armenia*</b>		
Instrument type	Income tax treaty	
Signed	1973	
Entered into force	1976	
Exchange of information	No	
Note: The income tax treaty with the former Union of Soviet Socialist Republics (USSR), signed in 1973, remains in effect between the United States and Armenia.		
<b>Aruba</b>		
Instrument type	TIEA	See Kingdom of the Netherlands
Signed	2003	MLAT, which covers Aruba. It
Entered into force	2004	may not be used for assistance
Exchange of information	Yes	related to fiscal offenses
Note: Aruba is an insular area of the Kingdom of the Netherlands. A tax treaty was signed in 1986 with the Netherlands regarding Aruba that is not in force.		

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Australia**

Instrument type	Income tax treaty	MLAT
Signed	1982	1997
Entered into force	1983	1999
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2001 that entered into force in 2003. The protocol does not amend tax information exchange provisions. The Ashmore and Cartier, Christmas, Cocos (Keeling), Coral Sea, and Norfolk Islands are covered by the U.S.-Australia tax treaty.

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**Austria**

Instrument type	Income tax treaty	MLAT
Signed	1996	1995
Entered into force	1998	1998
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-European Union (E.U.) MLAT was signed in 2005 that entered into force in 2010. This MLAT is entitled a protocol. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Azerbaijan\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Azerbaijan.

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**Bahamas**

Instrument type	TIEA	MLAT
Signed	2002	1987
Entered into force	2003	1990
Exchange of information	Yes	No

Note: The MLAT does not apply to tax information unless it pertains to other crimes.

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**Bangladesh**

Instrument type	Income tax treaty
Signed	2004
Entered into force	2006
Exchange of information	Yes

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**Barbados**

Instrument type	Income tax treaty	TIEA	MLAT
Signed	1984	1984	1996
Entered into force	1986	1984	2000
Exchange of information	Yes	Yes	Yes

Note: A tax treaty protocol was signed in 2004 that went into force in 2004. The protocol does mention tax information exchange.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Belarus\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Belarus.

**Belgium**

Instrument type	Income tax treaty	MLAT
Signed	2006	1988
Entered into force	2007	2000
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Belgium MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Belize**

Instrument type	MLAT
Signed	2000
Entered into force	2003
Exchange of information	Yes

**Bermuda**

Instrument type	Income tax treaty	TIEA	Potential MLAT <sup>a</sup>
Signed	1986	1986	2009
Entered into force	1988	1988	n.a. <sup>b</sup>
Exchange of information	Yes	Yes	Yes

Note: Bermuda is an insular area of the U.K. The U.S.-Bermuda tax treaty, entitled a Convention on the Taxation of Insurance Enterprises and Mutual Assistance in Tax Matters, does not have an information exchange article, but it does allow for mutual assistance in criminal tax matters.

**Brazil**

Instrument type	Potential TIEA <sup>a</sup>	MLAT
Signed	2007	1997
Entered into force	n.a. <sup>b</sup>	2001
Exchange of information	Yes	Yes

Note: A U.S.-Brazil income tax treaty was signed in 1967 that is not in force.

**British Virgin Islands (BVI)**

Instrument type	TIEA	MLAT
Signed	2002	Extended to BVI
Entered into force	2006	1990
Exchange of information	Yes	No

Note: BVI is an insular area of the United Kingdom. A U.S.-BVI tax treaty was signed in 1981 that is not in force. The U.S.-U.K./Cayman Islands MLAT was extended to BVI in 1990. See Cayman Islands MLAT for additional details.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Bulgaria**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	2007	2007
Entered into force	2008	2010
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2008 that went into force in 2008. The protocol does not amend tax information exchange provisions. Bulgaria has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Canada**

Instrument type	Income tax treaty	MLAT
Signed	1980	1985
Entered into force	1984	1990
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2007 that went into force in 2008. The protocol does mention tax information exchange.

**Cayman Islands**

Instrument type	TIEA	MLAT
Signed	2001	1986
Entered into force	2006	1990
Exchange of information	Yes	No

Note: The Cayman Islands is an insular area of the United Kingdom. The U.S.-U.K./Caymans MLAT extends to other areas as specified. The MLAT specifically excludes providing assistance in any matter which relates directly or indirectly to the regulation, including the imposition, calculation, and collection of taxes. A protocol to the U.S.-U.K./Caymans MLAT was signed in 1986 that went into force in 1990. The protocol does not amend tax information exchange provisions within the MLAT.

**Chile\***

Instrument type	Potential tax treaty <sup>a</sup>
Signed	2010
Entered into force	n.a. <sup>b</sup>
Exchange of information	Yes

Note: A tax treaty protocol was signed along with the treaty in 2010. The protocol does mention tax information exchange.

**China**

Instrument type	Income tax treaty	MLAA
Signed	1984	2000
Entered into force	1986	2001
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 1986 that went into force in 1986. The protocol does not amend tax information exchange provisions.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Colombia\***

Instrument type	Potential TIEA <sup>a</sup>
Signed	2001
Entered into force	n.a. <sup>b</sup>
Exchange of information	Yes

Note: A U.S.-Colombia MLAT was signed in 1980 that is not in force.

**Costa Rica**

Instrument type	TIEA
Signed	1989
Entered into force	1991
Exchange of information	Yes

**Cyprus**

Instrument type	Income tax treaty	MLAT
Signed	1984	1999
Entered into force	1985	2002
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Cyprus MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Czech Republic**

Instrument type	Income tax treaty	MLAT
Signed	1993	1998
Entered into force	1993	2000
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled a supplemental treaty to the 1998 U.S.-Czech Republic MLAT. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Denmark**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	1999	2005
Entered into force	2000	2010
Exchange of information	Yes	Yes

Note: The U.S.-Denmark tax treaty excludes the Faroe Islands and Greenland. A tax treaty protocol was signed in 2006 that went into force in 2007. The protocol does not amend tax information exchange provisions. Denmark has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Dominica**

Instrument type	TIEA	MLAT
Signed	1987	1996
Entered into force	1988	2000
Exchange of information	Yes	Yes

Note: Dominica is a signatory of the Four Eastern Caribbean States MLAT.

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**Dominican Republic**

Instrument type	TIEA
Signed	1989
Entered into force	1989
Exchange of information	Yes

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**Egypt**

Instrument type	Income tax treaty	MLAT
Signed	1980	1998
Entered into force	1981	2001
Exchange of information	Yes	Yes

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**Estonia**

Instrument type	Income tax treaty	MLAT
Signed	1998	1998
Entered into force	1999	2000
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Estonia MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Finland**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	1989	2004
Entered into force	1990	2010
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2006 that went into force in 2007. The protocol does mention tax information exchange. Finland has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**France**

Instrument type	Income tax treaty	MLAT
Signed	1994	1998
Entered into force	1995	2001
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2009 that went into force in 2009. The protocol does mention tax information exchange. Guadeloupe, Guyana, Martinique, and Reunion are covered by the U.S.-France tax treaty. Guadeloupe, French Guiana, French Polynesia, St. Pierre, and Miquelon are covered by the U.S.-France MLAT. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an instrument. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Georgia\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Georgia.

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**Germany**

Instrument type	Income tax treaty	MLAT
Signed	1989	2003
Entered into force	1991	2009
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2006 that went into force in 2007. The protocol does mention tax information exchange. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled a supplemental treaty to the 2003 U.S.-Germany MLAT. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Gibraltar**

Instrument type	TIEA
Signed	2009
Entered into force	2009
Exchange of information	Yes

Note: Gibraltar is an insular area of the U.K.

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**Greece**

Instrument type	Income tax treaty	MLAT
Signed	1950	1999
Entered into force	1953	2001
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 1964 that went into force in 1967. The protocol does not amend tax information exchange provisions. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled a protocol. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Grenada**

Instrument type	TIEA	MLAT
Signed	1986	1996
Entered into force	1987	1999
Exchange of information	Yes	Yes

Note: Grenada is a signatory of the Four Eastern Caribbean States MLAT.

**Guernsey**

Instrument type	TIEA
Signed	2002
Entered into force	2006
Exchange of information	Yes

Note: Guernsey is an insular area of the British Crown.

**Guyana**

Instrument type	TIEA
Signed	1992
Entered into force	1992
Exchange of information	Yes

**Honduras**

Instrument type	TIEA
Signed	1990
Entered into force	1991
Exchange of information	Yes

**Hong Kong**

Instrument type	MLAT
Signed	1997
Entered into force	2000
Exchange of information	Yes

**Hungary**

Instrument type	Income tax treaty	MLAT
Signed	1979	1994
Entered into force	1979	1997
Exchange of information	Yes	Yes

Note: A new U.S.-Hungary income tax treaty was signed in 2010 that is not yet in force. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2005 that entered into force in 2010. This MLAT functions as a protocol. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Iceland**

Instrument type	Income tax treaty
Signed	2007
Entered into force	2008
Exchange of information	Yes

Note: A tax treaty protocol was signed in 2007 that went into force in 2008. The protocol does mention tax information exchange.

**India**

Instrument type	Income tax treaty	MLAT
Signed	1989	2001
Entered into force	1990	2005
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1989 that went into force in 1990. The protocol does not amend the tax information exchange provisions.

**Indonesia**

Instrument type	Income tax treaty
Signed	1988
Entered into force	1990
Exchange of information	Yes

Note: A tax treaty protocol was signed in 1996 that went into force in 1996. The protocol does not amend tax information exchange provisions.

**Ireland**

Instrument type	Income tax treaty	MLAT
Signed	1997	2001
Entered into force	1997	2009
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 1999 that went into force in 2000. The protocol does not amend tax information exchange provisions. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2005 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Ireland MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Isle of Man**

Instrument type	TIEA	MLAT
Signed	2002	Extended to Isle of Man
Entered into force	2006	2003
Exchange of information	Yes	Yes

Note: The Isle of Man is an insular area of the British Crown.

**Israel**

Instrument type	Income tax treaty	MLAT
Signed	1975	1998
Entered into force	1994	1999
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 1993 that went into force in 1994. The protocol does mention tax information exchange.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

<b>Italy</b>		
Instrument type	Income tax treaty	MLAT
Signed	1999	1982
Entered into force	2009	1985
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the tax treaty in 1999 that went into force in 2009. The protocol does mention tax information exchange. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Italy MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

<b>Jamaica</b>			
Instrument type	Income tax treaty	TIEA	MLAT
Signed	1980	1986	1989
Entered into force	1981	1986	1995
Exchange of information	Yes	Yes	Yes

Note: A tax treaty protocol was signed in 1981 that went into force in 1981. The protocol does not amend tax information exchange provisions.

<b>Japan</b>		
Instrument type	Income tax treaty	MLAT
Signed	2003	2003
Entered into force	2004	2006
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 2003 that went into force in 2004. The protocol does mention tax information exchange.

<b>Jersey</b>	
Instrument type	TIEA
Signed	2002
Entered into force	2006
Exchange of information	Yes

Note: Jersey is an insular area of the British Crown.

<b>Kazakhstan</b>	
Instrument type	Income tax treaty
Signed	1993
Entered into force	1996
Exchange of information	Yes

Note: A tax treaty protocol was signed along with the treaty in 1993 that went into force in 1996. The protocol does not amend tax information exchange provisions.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Kyrgyz Republic\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and the Kyrgyz Republic.

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**Latvia**

Instrument type	Income tax treaty	MLAT
Signed	1998	1997
Entered into force	1999	1999
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2005 that entered into force in 2010. This MLAT is entitled a protocol. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Liechtenstein**

Instrument type	TIEA	MLAT
Signed	2008	2002
Entered into force	2009	2003
Exchange of information	Yes	Yes

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**Lithuania**

Instrument type	Income tax treaty	MLAT
Signed	1998	1998
Entered into force	1999	1999
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2005 that entered into force in 2010. This MLAT is entitled a protocol and contains text integrating new (U.S.-E.U.) and existing (U.S.-Lithuania MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Luxembourg**

Instrument type	Income tax treaty	MLAT
Signed	1996	1997
Entered into force	2000	2001
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2009 that is not in force. The protocol does mention tax information exchange. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2005 that entered into force in 2010. This MLAT is entitled an instrument. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Malaysia**

Instrument type	MLAT
Signed	2006
Entered into force	2009
Exchange of information	Yes

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**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Malta**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	2008	2006
Entered into force	2010	2010
Exchange of information	Yes	Yes

Note: Malta has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Marshall Islands**

Instrument type	TIEA
Signed	1991
Entered into force	1991
Exchange of information	Yes

**Mexico**

Instrument type	Income tax treaty	TIEA	MLAT
Signed	1992	1989	1987
Entered into force	1993	1990	1991
Exchange of information	Yes	Yes	Yes

Note: A tax treaty protocol was signed in 2002 that entered into force in 2003. The protocol does not amend tax information exchange provisions. A TIEA protocol was signed in 1994 that entered into force in 1995. The protocol does mention tax information exchange.

**Monaco**

Instrument type	TIEA
Signed	2009
Entered into force	2010
Exchange of information	Yes

**Moldova\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Moldova.

**Montserrat\***

Instrument type	MLAT
Signed	Extended to Montserrat
Entered into force	1991
Exchange of information	No

Note: Montserrat is an insular area of the United Kingdom. The U.S.-U.K. / Cayman Islands MLAT was extended to Montserrat in 1991. See Cayman Islands MLAT for additional details.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Morocco**

Instrument type	Income tax treaty	MLAT
Signed	1977	1983
Entered into force	1981	1993
Exchange of information	Yes	Yes

**Kingdom of the Netherlands**

Instrument type	Income tax treaty	MLAT
Signed	1992	1981
Entered into force	1993	1983
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2004 that went into force in 2004. The protocol does mention tax information exchange. The U.S.-Netherlands income tax treaty and the U.S.-E.U. MLAT exclude Aruba and the Netherlands Antilles. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an agreement. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Former Netherlands Antilles  
(Curaçao and St. Maarten)**

Instrument type	TIEA	MLAT
Signed	2002	Extended to Antilles
Entered into force	2007	1983
Exchange of information	Yes	No

Note: An income tax treaty was signed in 1986 that is not in force. Netherlands Antilles dissolved in October 2010. Curaçao and St. Maarten are now autonomous territories of the Kingdom of the Netherlands. Bonaire, Saba, and St. Eustatius are now under the direct administration of the Kingdom of the Netherlands. The Kingdom of the Netherlands MLAT, which was extended to the Netherlands Antilles, may not be used for assistance related to fiscal offenses requested of Netherlands Antilles.

**New Zealand**

Instrument type	Income tax treaty
Signed	1982
Entered into force	1983
Exchange of information	Yes

Note: A tax treaty protocol was signed in 2008 that went into force in 2010. The protocol does mention tax information exchange. The U.S.-New Zealand income tax treaty excludes the Cook Islands, Niue, and Tokelau.

**Nigeria**

Instrument type	MLAT
Signed	1989
Entered into force	2003
Exchange of information	Yes

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Norway**

Instrument type	Income tax treaty
Signed	1971
Entered into force	1972
Exchange of information	Yes

Note: A tax treaty protocol was signed in 1980 that went into force in 1981. The U.S.-Norway income tax treaty excludes the Spita Bergen, Jan Mayen, and other dependencies outside of Europe.

**Pakistan**

Instrument type	Income tax treaty
Signed	1957
Entered into force	1959
Exchange of information	Yes

**Panama**

Instrument type	TIEA	MLAT
Signed	2010	1991
Entered into force	2011	1995
Exchange of information	Yes	No

Note: The MLAT does not apply to tax information unless it pertains to other crimes.

**Peru**

Instrument type	TIEA
Signed	1990
Entered into force	1993
Exchange of information	Yes

**Philippines**

Instrument type	Income tax treaty	MLAT
Signed	1976	1994
Entered into force	1982	1996
Exchange of information	Yes	Yes

**Poland**

Instrument type	Income tax treaty	MLAT
Signed	1974	1996
Entered into force	1976	1999
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2006 that entered into force in 2010. This MLAT is entitled an agreement and contains text integrating new (U.S.-E.U.) and existing (U.S.-Poland MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.



**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Portugal**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	1994	2005
Entered into force	1995	2010
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 1994 that went into force in 1995. The protocol does mention tax information exchange. The U.S.-Portugal income tax treaty covers the Azores and Madeira archipelagos. Portugal has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Republic of Korea**

Instrument type	Income tax treaty	MLAT
Signed	1976	1993
Entered into force	1979	1997
Exchange of information	Yes	Yes

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**Romania**

Instrument type	Income tax treaty	MLAT
Signed	1973	1999
Entered into force	1976	2001
Exchange of information	Yes	Yes

Note: A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2007 that entered into force in 2010. This MLAT is entitled a protocol. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Russia**

Instrument type	Income tax treaty	MLAT
Signed	1992	1999
Entered into force	1993	2002
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1992 that went into force in 1993. The protocol does not amend tax information exchange provisions.

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**Slovak Republic**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	1993	2006
Entered into force	1993	2010
Exchange of information	Yes	Yes

Note: Slovak Republic has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Slovenia**

Instrument type	Income tax treaty	Partial MLAT (E.U.)
Signed	1999	2005
Entered into force	2001	2010
Exchange of information	Yes	Yes

Note: Slovenia has entered into a bilateral agreement pursuant to the U.S.-E.U. MLAT that functions as a partial MLAT allowing for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**South Africa**

Instrument type	Income tax treaty	MLAT
Signed	1997	1999
Entered into force	1997	2001
Exchange of information	Yes	Yes

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**Spain**

Instrument type	Income tax treaty	MLAT
Signed	1990	1990
Entered into force	1990	1993
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1990 that went into force in 1990. The protocol does mention tax information exchange. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Spain MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Sri Lanka**

Instrument type	Income tax treaty
Signed	1985
Entered into force	2004
Exchange of information	Yes

Note: A tax treaty protocol was signed in 2002 that went into force in 2004. The protocol does not amend tax information exchange provisions.

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**St. Kitts and Nevis**

Instrument type	MLAT
Signed	1997
Entered into force	2000
Exchange of information	Yes

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**St. Lucia**

Instrument type	TIEA	MLAT
Signed	1987	1996
Entered into force	1991	2000
Exchange of information	Yes	Yes

Note: St. Lucia is a signatory of the Four Eastern Caribbean States MLAT. IRS lists the St. Lucia TIEA as “nominally in force” because implementing legislation has not been enacted by the St. Lucia government.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**St. Vincent and Grenadines**

Instrument type		MLAT
Signed		1998
Entered into force		1999
Exchange of information		Yes

Note: An MLAT protocol was signed along with the MLAT in 1998 that went into force in 1999. The protocol does mention tax information exchange.

**Sweden**

Instrument type	Income tax treaty	MLAT
Signed	1994	2001
Entered into force	1995	2009
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed in 2005 that went into force in 2006. The protocol does mention tax information exchange. A bilateral MLAT pursuant to the U.S.-E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an instrument and contains text integrating new (U.S.-E.U.) and existing (U.S.-Sweden MLAT) obligations. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

**Switzerland**

Instrument type	Income tax treaty	MLAT
Signed	1996	1973
Entered into force	1997	1977
Exchange of information	Yes	No

Note: A tax treaty protocol was signed in 2009 that is not in force. The protocol does mention tax information exchange. In general, the MLAT does not apply to violations with respect to taxes, although it provides for several exceptions where assistance would be provided in tax cases.

**Taiwan**

Instrument type		MLAA
Signed		2002
Entered into force		2002
Exchange of information		Yes

**Tajikistan\***

Instrument type	Income tax treaty	
Signed	1973	
Entered into force	1976	
Exchange of information	No	

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Tajikistan.

**Thailand**

Instrument type	Income tax treaty	MLAT
Signed	1996	1986
Entered into force	1997	1993
Exchange of information	Yes	Yes

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**Trinidad and Tobago**

Instrument type	Income tax treaty	TIEA	MLAT
Signed	1970	1989	1996
Entered into force	1970	1990	1999
Exchange of information	Yes	Yes	Yes

**Tunisia**

Instrument type	Income tax treaty
Signed	1985
Entered into force	1990
Exchange of information	Yes

Note: A tax treaty protocol was signed in 1989 that entered into force in 1990. The protocol does not amend tax information exchange provisions.

**Turkey**

Instrument type	Income tax treaty	Extradition & MLAT
Signed	1996	1979
Entered into force	1997	1981
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1996 that entered into force in 1997. The protocol does not amend tax information exchange provisions. The U.S.-Turkey MLAT is entitled an Extradition and Mutual Assistance in Criminal Matters treaty.

**Turkmenistan\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Turkmenistan.

**Turks and Caicos Islands  
(TCI)**

Instrument type	MLAT
Signed	Extended to TCI
Entered into force	1990
Exchange of information	No

Note: The Turks and Caicos Islands is an insular area of the U.K. The U.S.-U.K./Cayman Islands MLAT was extended to TCI in 1990. See Cayman Islands MLAT for additional details.

**Ukraine**

Instrument type	Income tax treaty	MLAT
Signed	1994	1998
Entered into force	2000	2001
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1994 that entered into force in 2000. The protocol does not amend tax information exchange provisions.

**Appendix IV: Income Tax Treaties, TIEA, MLAT,  
and MLAA between the United States and  
Foreign Jurisdictions as of April 30, 2011**

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**United Kingdom (U.K.)**

Instrument type	Income tax treaty	MLAT
Signed	2001	1994
Entered into force	2003	1996
Exchange of information	Yes	Yes

Note: The U.K. includes England, Northern Ireland, Scotland, and Wales. A tax treaty protocol was signed in 2002 that entered into force in 2003. The protocol does not amend tax information exchange provisions. The U.S.-U.K. tax treaty excludes the Channel Islands. A bilateral MLAT pursuant to the U.S.- E.U. MLAT was signed in 2004 that entered into force in 2010. This MLAT is entitled an instrument. The U.S.-E.U. MLAT does not contain sweeping authority to exchange tax information, but does provide for the exchange of certain bank information and mutual legal assistance to administrative authorities.

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**Uruguay\***

Instrument type		MLAT
Signed		1991
Entered into force		1994
Exchange of information		No

Note: The MLAT does not apply to tax information unless it pertains to other crimes.

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**Uzbekistan\***

Instrument type	Income tax treaty
Signed	1973
Entered into force	1976
Exchange of information	No

Note: The income tax treaty with the former USSR, signed in 1973, remains in effect between the United States and Uzbekistan.

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**Venezuela**

Instrument type	Income tax treaty	MLAT
Signed	1999	1997
Entered into force	1999	2004
Exchange of information	Yes	Yes

Note: A tax treaty protocol was signed along with the treaty in 1999 that entered into force in 1999. The protocol does mention tax information exchange.

Source: GAO analysis of data from Thomson Reuters, Government Printing Office (GPO), LexisNexis, and the Department of State

\*Jurisdiction is not currently a tax information exchange partner.

<sup>a</sup>Instruments signed after 2000 that are not yet in force are included with current instruments as potential instruments. Instruments that were signed prior to 2000 that did not enter into force are included as notes.

<sup>b</sup>n.a. is Not Applicable. Potential agreements that have not entered into force do not have an entry into force date.

# Appendix V: Catalog and Key Characteristics of Information Exchange Agreements

**Table 5: Presence of Provisions Included in Article 26 of 2006 U.S. Model Tax Convention in Most Recent U.S. Tax Treaties in Force (Chronological)**

		Article 26													
Country	Year signed	Year most recent protocol with information exchange signed												Additional provisions	
			(1) <sup>a</sup>	(2)	(3)(a)	(3)(b)	(3)(c)	(4)	(5)	(6)	(7)	(8)	(9)		
1	Malta	2008	—	Y	O <sup>b</sup>	Y	Y	Y	Y	Y	Y	N	Y	Y	N
2	Bulgaria	2007	2007	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
3	Iceland	2007	2007	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	O <sup>d</sup>	N	N
4	Belgium	2006	2006	Y	Y	Y	Y	Y	Y	Y	Y	N	O <sup>e</sup>	O <sup>f</sup>	Y
5	Bangladesh	2004	—	N	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	N	N	N	N
6	Japan	2003	2003	Y	Y	Y	Y	Y	Y	Y	O <sup>g</sup>	N	N	N	N
7	United Kingdom	2001	—	N	Y	Y	Y	Y	Y	N	O <sup>c</sup>	Y	O <sup>d</sup>	O <sup>h</sup>	N
8	Denmark	1999	—	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	N	N	N	N
9	Italy	1999	1999	Y	Y	Y	Y	Y	N	N	N	N	N	N	N
10	Slovenia	1999	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
11	Venezuela	1999	1999	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	N	N	N	N
12	Estonia	1998	—	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	O <sup>i</sup>	N	N
13	Latvia	1998	—	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	O <sup>j</sup>	N	N
14	Lithuania	1998	—	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	O <sup>j</sup>	N	N
15	Ireland	1997	1997	N	Y	Y	Y	Y	N	N	O <sup>c</sup>	N	Y	N	N
16	South Africa	1997	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	Y	Y	N	N
17	Austria	1996	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	O <sup>k</sup>	N	N	Y
18	Luxembourg	1996	—	N	Y	Y	Y	Y	Y	N	O <sup>c</sup>	O <sup>k</sup>	N	N	N
19	Switzerland	1996	1996	N	Y	Y	Y	O <sup>l</sup>	N	N	N	O <sup>m</sup>	N	N	N
20	Thailand	1996	—	N	Y	Y	Y	Y	N	N	N	N	N	N	N
21	Turkey	1996	—	Y	Y	Y	Y	Y	Y	N	O <sup>n</sup>	N	N	N	N
22	France	1994	2009	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	N	O <sup>o</sup>	N	N
23	Portugal	1994	1994	Y	Y	Y	Y	Y	Y	O <sup>p</sup>	O <sup>c</sup>	N	N	N	N
24	Sweden	1994	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	Y	N
25	Ukraine	1994	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
26	Czech Republic	1993	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
27	Kazakhstan	1993	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
28	Slovak Republic	1993	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
29	Mexico	1992	1994	O <sup>q</sup>	Y	N	N	N	N	N	N	N	N	N	N

**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

**Article 26**

Country	Year signed	Year most recent protocol with information exchange signed	Article 26											Additional provisions	
			(1) <sup>a</sup>	(2)	(3)(a)	(3)(b)	(3)(c)	(4)	(5)	(6)	(7)	(8)	(9)		
30	Netherlands	1992	2004	N	O <sup>r</sup>	Y	Y	Y	Y	Y	O <sup>c</sup>	N	N	N	Y
31	Russian Fed.	1992	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
32	Spain	1990	1990	N	Y	Y	Y	Y	N	N	N	N	N	N	N
33	Finland	1989	2006	Y	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	N	N	N
34	Germany	1989	2006	O <sup>s</sup>	O <sup>t</sup>	Y	Y	Y	Y	Y	O <sup>c</sup>	Y	N	N	N
35	India	1989	—	N	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	O <sup>u</sup>	N
36	Indonesia	1988	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	Y
37	Bermuda <sup>hh</sup>	1986	—	N	N <sup>ii</sup>	N	N	N	N	N	N	N	N	N	N
38	Sri Lanka	1985	—	N	Y	Y	Y	Y	Y	N	O <sup>c</sup>	Y	N	N	N
39	Tunisia	1985	—	N	Y	Y	Y	Y	Y	N	N	N	N	N	N
40	Barbados	1984	2004	N	Y	Y	Y	Y	Y	Y	O <sup>c</sup>	N	N	O <sup>u</sup>	Y
41	China	1984	—	N	Y	Y	Y	Y	N	N	N	N	N	N	N
42	Cyprus	1984	—	N	O <sup>v</sup>	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	Y
43	Australia	1982	—	N	O <sup>v</sup>	O <sup>w</sup>	O <sup>w</sup>	O <sup>x</sup>	N	N	O <sup>y</sup>	Y	N	N	N
44	New Zealand	1982	2008	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
45	Canada	1980	2007	O <sup>z</sup>	O <sup>aa</sup>	Y	Y	Y	Y	Y	Y	N	Y	N	Y
46	Egypt	1980	—	N	O <sup>bb</sup>	N	N	O <sup>x</sup>	N	N	O <sup>c</sup>	N	N	N	Y
47	Jamaica	1980	—	Y	Y	Y	Y	Y	Y	N	O <sup>c</sup>	Y	N	N	N
48	Hungary	1979	—	N	Y	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N
49	Morocco	1977	—	N	O <sup>v</sup>	Y	Y	Y	N	N	N	N	N	N	Y
50	Philippines	1976	—	N	O <sup>bb</sup>	N	Y	O <sup>x</sup>	Y	N	O <sup>c</sup>	N	N	N	N
51	South Korea	1976	—	N	O <sup>aa</sup>	N	Y	O <sup>x</sup>	N	N	O <sup>c</sup>	N	N	N	Y
52	Israel	1975	1993	N	O <sup>v</sup>	Y	Y	Y	N	N	N	N	N	N	N
53	Poland	1974	—	N	O <sup>bb</sup>	N	Y	O <sup>x</sup>	N	N	O <sup>c</sup>	N	N	N	N
54	Romania	1973	—	N	O <sup>bb</sup>	N	Y	O <sup>x</sup>	N	N	O <sup>c</sup>	N	N	N	Y
55	Armenia	1973	—	N	N	N	N	N	N	N	N	N	N	N	N
56	Azerbaijan	1973	—	N	N	N	N	N	N	N	N	N	N	N	N
57	Belarus	1973	—	N	N	N	N	N	N	N	N	N	N	N	N
58	Georgia	1973	—	N	N	N	N	N	N	N	N	N	N	N	N
59	Kyrgyz Republic	1973	—	N	N	N	N	N	N	N	N	N	N	N	N
60	Moldova	1973	—	N	N	N	N	N	N	N	N	N	N	N	N

**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

**Article 26**

Country	Year signed	Year most recent protocol with information exchange signed	Article 26											Additional provisions	
			(1) <sup>a</sup>	(2)	(3)(a)	(3)(b)	(3)(c)	(4)	(5)	(6)	(7)	(8)	(9)		
61 Tajikistan	1973	—	N	N	N	N	N	N	N	N	N	N	N	N	N
62 Turkmenistan	1973	—	N	N	N	N	N	N	N	N	N	N	N	N	N
63 Uzbekistan	1973	—	N	N	N	N	N	N	N	N	N	N	N	N	N
64 Norway	1971	1980	N	O <sup>v</sup>	Y	Y	Y	Y	N	O <sup>c</sup>	N	N	N	N	Y
65 Trinidad & Tobago	1970	—	N	O <sup>v</sup>	O <sup>cc</sup>	O <sup>cc</sup>	O <sup>dd</sup>	N	N	N	N	N	N	N	N
66 Pakistan	1957	—	N	O <sup>v</sup>	O <sup>ee</sup>	O <sup>ee</sup>	O <sup>dd</sup>	N	N	N	N	N	N	N	N
67 Greece	1950	—	N	O <sup>v</sup>	O <sup>ff</sup>	O <sup>ff</sup>	O <sup>gg</sup>	N	N	N	N	N	N	N	N

Source: GAO analysis of Thomson Reuters data.

Notes: “Y” signifies provision is present; “N” signifies provision is not present, and “O” signifies that a provision could not be definitively classified either way and is categorized as “other.”

<sup>a</sup>Paragraph 1 was considered to be present if all taxes were covered.

<sup>b</sup>Disclosure is permitted for purposes allowed under Mutual Legal Assistant Treaty (MLAT).

<sup>c</sup>Under the treaty, the form of information is restricted to what can be obtained under laws of requested state.

<sup>d</sup>Treaty does not explicitly permit such visits. Also, the treaty includes a notification requirement to the Competent Authority of intent to visit.

<sup>e</sup>Treaty allows for the interviews and examinations subject to conditions and limits agreed to by the contracting states, but does not explicitly require the consent of the person subject to examination.

<sup>f</sup>Treaty provides that the parties shall agree upon the mode of application, rather than just permitting them to develop an agreement.

<sup>g</sup>Treaty does not cover depositions and does not specify “unedited” original documents.

<sup>h</sup>Treaty says treaty partners will consult for purposes of cooperating and advising on implementation.

<sup>i</sup>Treaty says that examining officials need the consent of the other state as well as the persons being examined.

<sup>j</sup>Treaty says that examining officials need the consent of the examined and the presence of the other state.

<sup>k</sup>Treaty says “States shall undertake to lend each other support and assistance in the collection of taxes” as opposed to “endeavor to collect taxes” as stated in the Model.

<sup>l</sup>Treaty does not state that disclosure is not allowed in cases of commercial secrets and when disclosure would be contrary to public policy.

<sup>m</sup>Under the treaty, the contracting states “may” collect taxes imposed by the other state to ensure that exemptions or reduced rates under certain articles are not enjoyed by persons not entitled to them.

<sup>n</sup>Treaty states that to the maximum extent possible under the laws and administrative practices and procedures of the requested state, it shall provide information in a form consistent with the purposes of the request.

<sup>o</sup>Representatives are allowed entry only with the consent of the person examined and the Competent Authority, who may be present or represented if desired. This is also only allowed if the contracting states agree to such inquiries on a reciprocal basis.



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**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

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<sup>p</sup>Protocol states that information to be exchanged includes records of financial institutions, records relating to third parties, and records relating to persons referenced in Art. 17(6). Protocol states an understanding that treaty partners are empowered by their domestic law to obtain bank information.

<sup>q</sup>Treaty as amended by the protocol says that the Competent Authorities are authorized to exchange information in accordance with another agreement, presumably aTIEA.

<sup>r</sup>Treaty states that information exchanged may be used as evidence in a criminal case only if prior authorization by the requested state's Competent Authority has been given or Competent Authorities have mutually waived this provision.

<sup>s</sup>Information to be exchanged is limited to taxes covered by the Convention, however, contracting states may exchange notes under which information may be exchanged for purposes of taxes not covered.

<sup>t</sup>Under the treaty, information may be disclosed in public court proceedings or judicial decisions unless the requested state raises an objection.

<sup>u</sup>Treaty states that "the Competent Authorities shall through consultation develop appropriate conditions, methods, and techniques concerning the matters in respect of which such exchange of information shall be made including where appropriate exchange of information regarding tax avoidance."

<sup>v</sup>Treaty says information shall be treated as secret, in contrast to the Model, which says information shall be treated as secret in the same manner as information obtained under the domestic laws of that state. Treaty does not state that information may be disclosed in public court proceedings or in judicial decisions.

<sup>w</sup>Treaty provides that information to be exchanged must be of a class that can be obtained under the laws and administrative practices of each state with respect to its own taxes.

<sup>x</sup>Blanket public policy provision that does not specifically speak to trade, business, professional, etc. secrets.

<sup>y</sup>Treaty does not contain a provision for depositions.

<sup>z</sup>Treaty applies to all taxes imposed by a contracting state and to other taxes that any other provision of the Convention applies, but only to the extent that the information may be relevant for the purposes of the application of that provision.

<sup>aa</sup>Treaty allows for disclosure of information in relation to taxes imposed by a political subdivision or local authority that are substantially similar to taxes covered by the Convention.

<sup>bb</sup>Treaty says "information shall be treated as secret," in contrast to the Model, which says "information shall be treated as secret in the same manner as information obtained under the domestic laws of that state." Treaty provides that information may be disclosed to any "person," rather than "persons or authorities" concerned with taxes. Treaty provides that information may be made part of the public record.

<sup>cc</sup>Under the treaty, information is not exchanged unless the information would be available under the laws and administrative procedures of the requested state if the tax of the requesting state was being imposed by the requested state.

<sup>dd</sup>Treaty does not mention commercial secrets, trade processes, or "contrary to public policy" as reasons not to disclose.

<sup>ee</sup>Treaty contemplates only information that is available under the respective taxation laws of the contracting states in the normal course of administration.

<sup>ff</sup>Treaty contemplates exchange of information only when the authorities have the information at their disposal.

<sup>gg</sup>Treaty lists technical secrets and processes related to trade, industry, business, or a profession as reasons not to disclose. Treaty does not list "contrary to public policy" as reason not to disclose.

<sup>hh</sup>The Bermuda treaty document itself does not contain an information exchange article, but it does contain an article for mutual assistance in tax matters.

<sup>ii</sup>Article 6 of the Bermuda treaty, "Confidentiality," states that "any matters subject to assistance under Article 5 [Mutual Assistance in Tax Matters] shall be treated as confidential in the same manner as such matters or items would be under the domestic laws of the Covered Jurisdiction requesting the assistance...."

**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

**Table 6: Description of Key Features Included in U.S. TIEAs (Chronological)**

	<b>Country</b>	<b>Year signed</b>	<b>All U.S. federal taxes covered</b>	<b>Ways information can be provided<sup>a</sup></b>	<b>Specificity requirements<sup>b</sup></b>	<b>Reasons request cannot be denied<sup>c</sup></b>	<b>Declining a request<sup>d</sup></b>
1	Panama	2010	Y	R	Y	J, T, L, B, D	M, C, X, I, R, V, U, Z
2	Gibraltar	2009	Y	R	Y	J, T, L, B, E, D	M, C, X, I, V, U, Z
3	Monaco	2009	Y	R	Y	J, T, L, B, E, D	M, C, X, I, R, V, U, Z
4	Liechtenstein	2008	Y	R	Y	J, T, L, B, E, D	M, C, X, I, V, U, Z
5	Aruba	2003	Y <sup>e</sup>	R	P <sup>^</sup>	J, T, L, B, E	C, I, R, V, U, Z
6	Jersey	2002	Y <sup>e</sup>	R	Y	J, T, B, E, D	M, C, X, I, V, U, Z
7	Bahamas	2002	Y	R	P <sup>^</sup>	L, B	M, C, X, I, V, Z
8	Guernsey	2002	Y	R	Y	J, T, B, E, D	M, C, X, I, V, U, Z
9	Isle of Man	2002	Y	R	P <sup>^</sup>	J, T, B, E, D	M, C, X, I, R, U
10	Netherlands Antilles	2002	Y	R	N	J, T, L, B, E	C, I, R, V, U, Z
11	British Virgin Islands	2002	Y	R	P <sup>^</sup>	J, T, B, E, D	C, X, I, U
12	Antigua & Barbuda	2001	Y	R	N	J, T, L, B, E	C, I, R, V, U, Z
13	Cayman Islands	2001	Y	R	P <sup>^</sup>	J, T, B, E, D	M, C, X, I, U
14	Guyana	1992	Y <sup>e</sup>	R	N	J, L, B	C, I, R, V, U
15	Marshall Islands	1991	Y <sup>e</sup>	A, S, R	N	J, L, B, E	C, I, R, V, U, Z
16	Honduras	1990	Y <sup>e</sup>	A, S, R	N	J, L, B, E	C, I, R, V, U, Z
17	Peru	1990	Y <sup>e</sup>	A, S, R	N	J, L, B, E	C, I, R, V, U, Z
18	Costa Rica	1989	Y <sup>e</sup>	S, R	N	J, L, B	C, I, R, V, U, Z
19	Dominican Republic	1989	Y <sup>e</sup>	A, S, R	N	J, L, E	V, U, Z
20	Mexico	1989	Y <sup>e</sup>	A, S, R	N	J, L	C, I, R, V, U, Z
21	Trinidad & Tobago	1989	Y <sup>e</sup>	R	N	J, L, B, E	C, I, R, V, U, Z
22	Bermuda	1988	Y <sup>e</sup>	R	N	J, L	C, X, I, R, V, U, Z
23	Dominica	1987	Y <sup>e</sup>	R	N	J, L, B, E	C, I, R, V, U, Z
24	St. Lucia	1987	Y <sup>e</sup>	A, S, R	N	J, L	C, I, R, V, U, Z
25	Grenada	1986	Y <sup>e</sup>	A, S, R	N	J, L, B, E	C, I, R, V, U, Z
26	Jamaica	1986	Y <sup>e</sup>	R	N	J, L, B	C, I, R, V, U, Z
27	Barbados	1984	Y <sup>e</sup>	R	N	J, L, B	C, I, R, V, U, Z

Source: GAO analysis of Thomson Reuters data.

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**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

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<sup>a</sup>"A" indicates the competent authorities shall automatically transmit information to each other; "S" indicates the competent authorities shall spontaneously transmit certain information; and "R" indicates the competent authorities shall provide information to each other upon request. Marshall Islands TIEA states that the "competent authorities of the Contracting States may provide for the automatic transmission of information." Peru TIEA states that "contracting states shall transmit to each other information which has come to their attention which is likely to be relevant to and contribute significantly to accomplishment of the purposes of the TIEA." Peru TIEA also does not use the word "spontaneous" but describes spontaneous exchanges. Bermuda TIEA does not specifically say "information will be exchanged upon request," but does say assistance will be provided where appropriate in matters relating to the prevention of tax fraud and evasion of taxes. Context implies providing information upon request.

<sup>b</sup>"Y" signifies that the TIEA includes a list of nine items that the requesting party provides (see below); "N" signifies that the TIEA does not include this list; and "P" signifies the list of nine items is partially present. TIEAs marked "P^" include the provision requiring the identity of the taxpayer be included in the request. In the case of the British Virgin Islands, the TIEA also contains an extra provision requiring the name of the authority seeking information. The list of items that the requesting party provides is as follows:

1. the identity of the taxpayer whose tax or criminal liability is at issue;
2. the period of time with respect to which the information is requested;
3. the nature of the information requested and the form in which the requesting party would prefer to receive it;
4. the matter under the requesting party's tax law with respect to which the information is sought;
5. the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting party, with respect to the person identified in subparagraph (a) of this paragraph;
6. grounds for believing that the information requested is present in the requested party or is in the possession or control of a person within the jurisdiction of the requested party;
7. to the extent known, the name and address of any person believed to be in possession or control of the information requested;
8. a statement that the requesting party would be able to obtain and provide the requested information if a similar request were made by the requested party;
9. a statement that the requesting party has pursued all reasonable means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

<sup>c</sup>There are several reasons common in TIEAs that are not sufficient for denying an information request. These are as follows:

"J"—Information to be exchanged without regard to whether the person to whom the information relates is, or whether the information is held by, a resident of the party, or a requested party is not obliged to provide information that is neither held by its authorities nor in the possession or control of persons within its territorial jurisdiction, or both. (Bermuda TIEA requires when a requesting state asks for information (1) relating to a nonresident or (2) relating to a matter that is not criminal or tax fraud, the requesting state shall certify that the request is relevant and necessary for the determination of a tax liability. If information is requested on a nonresident in either jurisdiction, the requested state must be satisfied that the information is necessary for the proper administration and enforcement of fiscal law.)

"T"—Information to be exchanged without regard to whether the requested party needs such information for its own tax purposes, or information to be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested party, or both.

"L"—Privileges under the law of the requesting party shall not apply to the execution of a request by the requested party. (Under Bahamas TIEA, information is not to be exchanged that constitutes or would reveal a privileged communication, but each contracting party has the exclusive right to determine what constitutes privilege under its own laws.)

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**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

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"B"—Each party shall ensure that it has the authority to obtain and provide information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity, or information regarding (beneficial) ownership, or both. (Costa Rica TIEA states that when Costa Rica is the requested state, it will provide bank information only with the authorization of the Judge of Administrative Trials, which is granted in matters related to the enforcement of laws relating to tax fraud as defined by Costa Rican law.)

"E"—Allow officials of the requesting party to enter the territory of the requested party to interview individuals and examine records or attend a tax examination, or both.

"D"—Request is not to be declined because the taxpayer disputes the tax liability.

<sup>d</sup>A request can be denied for several reasons:

"M"—Where the requesting party has not pursued all means available in its own territory to obtain the information, except where such recourse would give rise to disproportionate difficulty.

"C"—Where the disclosure of the information requested would be contrary to the public policy of the requested party.

"X"—Information is subject to legal privilege.

"I"—Information contains trade, business, industrial, commercial, or professional secret or trade process.

"R"—For the administration or enforcement of a provision of tax law of the requesting state that discriminates against nationals of the requested state.

"V"—That would result in taking administrative measures at variance with the requested party's laws and administrative practices, provided there is compliance with the Exchange of information article.

"U"—The requested party shall not be required to obtain and provide information that the requesting party would be unable to obtain in similar circumstances under its own laws.

"Z"—The statute of limitations applies to the requesting party. (Peru TIEA does not mention statute of limitations, but does say that the TIEA does not apply to the extent that an action or proceeding is barred by the requesting state's laws.)

<sup>e</sup>TIEAs specify U.S. federal taxes by stating the agreement covers U.S. federal income taxes, federal taxes on self-employment income, federal estate and gift taxes, federal excise taxes, or transfers to avoid income tax.

**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

**Table 7: Description of Key Features Included in Bilateral U.S. MLATs (Chronological)**

	<b>Country</b>	<b>Year signed</b>	<b>Specifically mentions "tax" in text of treaty</b>	<b>Dual criminality provision<sup>a</sup></b>	<b>Circumstances under which requests can be denied<sup>b</sup></b>
1	Bulgaria <sup>c</sup>	2007	Y	L	A, B, C, D
2	Malaysia	2006	N	Y	A, B, C, D, F, H, two more
3	Germany	2003	Y	L	C
4	Japan	2003	N	L	B, C, D
5	Liechtenstein	2002	Y	L	A, B, C, D
6	Taiwan <sup>d</sup>	2002	N	L	A, C, D
7	Sweden	2001	N	L	A, B, C, D, E
8	India	2001	N	N	A, B, C, D
9	Ireland	2001	N	L	A, B, C, D, F
10	Belize	2000	Y	L	A, B, C, D, G, J
11	China <sup>d</sup>	2000	N	Y	A, B, C, F, G, H
12	Cyprus	1999	N	L	A, B, C, D, G, I
13	South Africa	1999	N	N	A, B, C, D
14	Russia	1999	N	Y	A, C, D
15	Romania	1999	Y	L	A, B, C, D
16	Greece	1999	N	L	A, B, C, D
17	France	1998	N	X	B, C
18	Ukraine	1998	N	N	A, B, C, D
19	Egypt	1998	N	N	A, C, D
20	Estonia	1998	N	N	A, B, C, D
21	Czech Republic	1998	N	L	A, B, C, D
22	Israel	1998	Y	N	A, B, C, D
23	Lithuania	1998	N	N	A, B, C, D
24	St. Vincent & the Grenadines	1998	Y	L	A, B, C, D, G
25	Brazil	1997	N	N	A, C, D
26	Venezuela	1997	N	L	A, B, C, D
27	St. Kitts & Nevis	1997	Y	L	A, B, C, D, G
28	Latvia	1997	N	N	A, B, C, D
29	Australia	1997	N	X	A, B, C
30	Hong Kong	1997	Y	Y	A, B, C, D, F, H
31	Luxembourg	1997	Y	L	A, C, D, F
32	Antigua & Barbuda	1996	Y	L	A, B, C, D, G
33	Dominica	1996	N	L	A, B, C, D, G
34	Grenada	1996	N	L	A, B, C, D, G

**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

	<b>Country</b>	<b>Year signed</b>	<b>Specifically mentions "tax" in text of treaty</b>	<b>Dual criminality provision<sup>a</sup></b>	<b>Circumstances under which requests can be denied<sup>b</sup></b>
35	St. Lucia	1996	N	L	A, B, C, D, G
36	Trinidad & Tobago	1996	N	Y	A, C, D
37	Poland	1996	N	N	A, B, C, D
38	Barbados	1996	N	L	A, B, C, D, G
39	Austria	1995	Y	L	A, B, C
40	Hungary	1994	N	N	A, B, C, D
41	Philippines	1994	N	N	A, B, C, D
42	Isle of Man	1994	N	X	A, B, C, F
43	United Kingdom	1994	N	X	A, B, C, F
44	South Korea	1993	N	Y	A, B, C, H
45	Uruguay	1991	Y	L	A, B, C, F
46	Panama	1991	Y	X	B, C, D, F, H, J
47	Argentina	1990	N	N	A, B, C
48	Spain	1990	N	L	A, C
49	Nigeria	1989	N	N	A, B, C, D, G
50	Jamaica	1989	N	Y	A, B, C, D, G, J
51	Belgium	1988	N	L	A, C, D
52	Mexico	1987	N	X	A, B, C
53	Bahamas	1987	Y	Y	A, B, C, D, F, H, J
54	Anguilla	1986	Y	Y	A, B, C, D, F, H, J
55	British Virgin Islands	1986	Y	Y	A, B, C, D, F, H, J
56	Cayman Islands	1986	Y	Y	A, B, C, D, F, H, J
57	Montserrat	1986	Y	Y	A, B, C, D, F, H, J
58	Turks & Caicos Islands	1986	Y	Y	A, B, C, D, F, H, J
59	Thailand	1986	N	N	A, B, C
60	Canada	1985	N	N	D, contrary to the public interest
61	Morocco	1983	N	X	A, B, C
62	Italy	1982	N	N	A, B, C, D
63	Netherlands	1981	Y	X	B, C, D, F
64	Netherlands Antilles <sup>e</sup>	1981	Y	X	B, C, D, F
65	Aruba	1983	Y	X	B, C, D, F
66	Turkey <sup>f</sup>	1979	N	X	A, B, C
67	Switzerland	1973	Y	X	A, B

Source: GAO analysis of Government Printing Office (GPO), Thomson Reuters, LexisNexis, and Department of State data.

<sup>a</sup>In terms of dual criminality, meaning that a person's actions are considered to be an offense in both the requested and requesting jurisdictions:

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**Appendix V: Catalog and Key Characteristics  
of Information Exchange Agreements**

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"N"-MLAT contains a provision specifically stating that dual criminality is not a requirement for assistance

"X"-MLAT contains no discussion of dual criminality

"L"-MLAT contains a dual-criminality requirement in certain circumstances, such as requests dealing with searches and seizures and forfeitures

"Y"-MLAT contains a dual-criminality requirement for assistance

<sup>b</sup>Requests for assistance can be denied for several key reasons:

"A"-the request relates to an offense under military law that would not be an offense under ordinary criminal law

"B"-the request relates to a political offense

"C"-the execution of the request would prejudice the security or other similar essential interests of the requested state

"D"-the request does not conform to the requirements of the treaty

"E"-the request relates to an offense for which the penalty in the requesting state is deprivation of liberty for a period of a year or less

"F"-the request relates to an offender who, if proceeded against under the law of the requested state for the offense for which assistance is requested, would be entitled to be discharged on the grounds of a previous acquittal or conviction

"G"-the execution of the request would violate the constitution of the requested state

"H"-there are substantial grounds leading the central authority of the requested state to believe that compliance would facilitate the prosecution or punishment of the person to whom the request refers on account of his race, religion, nationality, or political opinions

"I"-the execution of the request would violate the obligations of the requested state under any international multilateral treaty relating to human rights

"J"-the request does not show either that proceedings for criminal law enforcement purposes have been instituted in the requesting state or than (sic) there are reasonable grounds for believing that a criminal offense has been or is likely to be committed

<sup>c</sup>Bulgaria is considered to have a partial MLAT through the EU-MLAT.

<sup>d</sup>Mutual Legal Assistance Agreement.

<sup>e</sup>On October 10, 2010, the Netherlands Antilles dissolved and is now Curaçao and St. Maarten.

<sup>f</sup>Turkey's Extradition and Mutual Assistance Treaty contains a provision for mutual legal assistance.

# Appendix VI: Composition of Treaty Partner Groupings

Agreement type		2010 Organisation for Economic Co-operation and Development (OECD) membership		2006-2009 average trade volume		International tax standards implementation, as of 2006		
		Partners with OECD membership	Partners without OECD membership	Partners that are among the United States' top 25 trade partners	Partners that are not among the United States' top 25 trade partners	Partners that had substantially implemented the tax standard	Partners that had not substantially implemented the tax standard <sup>a</sup>	Partners that were not included in OECD's 2006 review
Partners with a Tax Information Exchange Agreement (TIEA)	Partners with a tax treaty or Mutual Legal Assistance Treaty (MLAT) and no TIEA							
Aruba	Australia	Australia	Antigua & Barbuda	Australia	Antigua & Barbuda	Argentina	Antigua & Barbuda	Bangladesh
Antigua & Barbuda	Argentina	Austria	Argentina	Belgium	Argentina	Australia	Aruba	Brazil
Bahamas	Austria	Belgium	Aruba	Brazil	Aruba	Barbados	Austria	Bulgaria
Barbados	Bangladesh	Canada	Bahamas	Canada	Austria	Canada	Bahamas	Dominican Republic
Bermuda	Belgium	Czech Republic	Bangladesh	China	Bahamas	China	Belgium	Egypt
British Virgin Islands	Belize	Denmark	Barbados	France	Bangladesh	Cyprus	Belize	Estonia
Cayman Islands	Brazil	Estonia	Belize	Germany	Barbados	Czech Republic	Bermuda	Guyana
Costa Rica	Bulgaria	Finland	Bermuda	Hong Kong	Belize	Denmark	British Virgin Islands	Honduras
Curaçao <sup>b</sup>	Canada	France	Brazil	India	Bermuda	Finland	Cayman Islands	India
Dominica	China	Germany	British Virgin Islands	Ireland	British Virgin Islands	France	Costa Rica	Indonesia
Dominican Republic	Cyprus	Greece	Bulgaria	Israel	Bulgaria	Germany	Dominica	Israel
Gibraltar	Czech Republic	Hungary	Cayman Islands	Italy	Cayman Islands	Greece	Gibraltar	Jamaica
Grenada	Denmark	Iceland	China	Japan	Costa Rica	Hungary	Grenada	Kazakhstan
Guernsey	Egypt	Ireland	Costa Rica	Malaysia	Cyprus	Iceland	Guernsey	Latvia
Guyana	Estonia	Israel	Curaçao <sup>b</sup>	Mexico	Czech Republic	Ireland	Hong Kong	Lithuania
Honduras	Finland	Italy	Cyprus	Netherlands	Denmark	Italy	Isle of Man	Morocco
Isle of Man	France	Japan	Dominica	Nigeria	Dominica	Japan	Jersey	Nigeria
Jamaica	Germany	Luxembourg	Dominican Republic	Republic of Korea	Dominican Republic	Malta	Liechtenstein	Pakistan



**Appendix VI: Composition of Treaty Partner Groupings**

Agreement type		2010 Organisation for Economic Co-operation and Development (OECD) membership		2006-2009 average trade volume		International tax standards implementation, as of 2006		
Partners with a Tax Information Exchange Agreement (TIEA)	Partners with a tax treaty or Mutual Legal Assistance Treaty (MLAT) and no TIEA	Partners with OECD membership	Partners without OECD membership	Partners that are among the United States' top 25 trade partners	Partners that are not among the United States' top 25 trade partners	Partners that had substantially implemented the tax standard	Partners that had not substantially implemented the tax standard <sup>a</sup>	Partners that were not included in OECD's 2006 review
Jersey	Greece	Mexico	Egypt	Russia	Egypt	Mexico	Luxembourg	Peru
Liechtenstein	Hong Kong	Netherlands	Gibraltar	Spain	Estonia	Netherlands	Malaysia	Romania
Marshall Islands	Hungary	New Zealand	Grenada	Switzerland	Finland	New Zealand	Marshall Islands	Slovenia
Mexico	Iceland	Norway	Guernsey	Taiwan	Gibraltar	Norway	Monaco	Sri Lanka
Monaco	India	Poland	Guyana	Thailand	Greece	Poland	Netherlands Antilles <sup>b</sup>	Taiwan
Peru	Indonesia	Portugal	Honduras	United Kingdom	Grenada	Portugal	Philippines	Thailand
St. Lucia	Ireland	Republic of Korea	Hong Kong	Venezuela	Guernsey	Republic of Korea	St. Lucia	Trinidad & Tobago
St. Maarten <sup>b</sup>	Israel	Slovak Republic	India		Guyana	Russia	St. Kitts & Nevis	Tunisia
Trinidad & Tobago	Italy	Slovenia	Indonesia		Honduras	Slovak Republic	St. Vincent & Grenadines	Ukraine
	Japan	Spain	Isle of Man		Hungary	South Africa	Switzerland	Venezuela
	Kazakhstan	Sweden	Jamaica		Iceland	Spain		
	Latvia	Switzerland	Jersey		Indonesia	Sweden		
	Lithuania	Turkey	Kazakhstan		Isle of Man	Turkey		
	Luxembourg	United Kingdom	Latvia		Jamaica	United Kingdom		
	Malaysia		Liechtenstein		Jersey			
	Malta		Lithuania		Kazakhstan			
	Morocco		Malaysia		Latvia			
	Netherlands		Malta		Liechtenstein			
	New Zealand		Marshall Islands		Lithuania			
	Nigeria		Monaco		Luxembourg			
	Norway		Morocco		Malta			
	Pakistan		Nigeria		Marshall Islands			

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Agreement type		2010 Organisation for Economic Co-operation and Development (OECD) membership		2006-2009 average trade volume		International tax standards implementation, as of 2006		
Partners with a Tax Information Exchange Agreement (TIEA)	Partners with a tax treaty or Mutual Legal Assistance Treaty (MLAT) and no TIEA	Partners with OECD membership	Partners without OECD membership	Partners that are among the United States' top 25 trade partners	Partners that are not among the United States' top 25 trade partners	Partners that had substantially implemented the tax standard	Partners that had not substantially implemented the tax standard <sup>a</sup>	Partners that were not included in OECD's 2006 review
	Poland		Peru		Morocco			
	Portugal		Philippines		Netherlands Antilles <sup>b</sup>			
	Republic of Korea		Romania		New Zealand			
	Romania		Russia		Norway			
	Russia		South Africa		Pakistan			
	Slovak Republic		Sri Lanka		Peru			
	Slovenia		St. Kitts & Nevis		Philippines			
	South Africa		St. Lucia		Poland			
	Spain		St. Maarten <sup>b</sup>		Portugal			
	Sri Lanka		St. Vincent & Grenadines		Romania			
	St. Kitts & Nevis		Taiwan		Slovak Republic			
	St. Vincent & Grenadines		Thailand		Slovenia			
	Sweden		Trinidad & Tobago		South Africa			
	Switzerland		Tunisia		Sri Lanka			
	Taiwan		Ukraine		St. Kitts & Nevis			
	Thailand		Venezuela		St. Lucia			
	Tunisia				St. Vincent & Grenadines			
	Turkey				Sweden			
	Ukraine				Trinidad & Tobago			

**Appendix VI: Composition of Treaty Partner Groupings**

Agreement type		2010 Organisation for Economic Co-operation and Development (OECD) membership		2006-2009 average trade volume		International tax standards implementation, as of 2006		
		Partners with OECD membership	Partners without OECD membership	Partners that are among the United States' top 25 trade partners	Partners that are not among the United States' top 25 trade partners	Partners that had substantially implemented the tax standard	Partners that had not substantially implemented the tax standard <sup>a</sup>	Partners that were not included in OECD's 2006 review
Partners with a Tax Information Exchange Agreement (TIEA)	Partners with a tax treaty or Mutual Legal Assistance Treaty (MLAT) and no TIEA							
	United Kingdom				Tunisia			
	Venezuela				Turkey			
					Ukraine			

Source: GAO analysis of data from Thomson Reuters, Government Printing Office (GPO), LexisNexis, U.S. Department of State, OECD, and the U.S. Department of Commerce, Bureau of Economic Analysis.

Note: Panama was not included in the treaty partner groupings.

<sup>a</sup>Treaty partners that appeared on OECD's 2009 "Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard" as having agreed to but not yet substantially implemented the international tax standards were placed in this category. The remaining treaty partners in this category were listed in OECD's 2006 report "Tax Co-operation: Towards a Level Playing Field" as having fewer than 12 double taxation agreements and tax information exchange agreements in force.

<sup>b</sup>The Netherlands Antilles dissolved in 2010. Curaçao and St. Maarten were formerly part of the Netherlands Antilles.

# Appendix VII: Comments from the Internal Revenue Service



DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

August 18, 2011

Mr. Michael Brostek  
Director, Tax Issues  
Strategic Issues Team  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Mr. Brostek:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report titled, "Tax Administration: IRS's Information Exchanges with Other Countries Could Be Improved through Better Performance Information" (GAO-11-730). Information Exchange is essential to combating tax evasion, and ensuring timely and effective exchanges is important to the Internal Revenue Service.

The Internal Revenue Service and other tax authorities around the world have been working together to improve and enhance our information exchange programs. The recommendation made in the draft report concerning the potential use of performance information brings to light additional steps that should be taken. The Internal Revenue Service intends to implement the recommendation as described in a separate enclosure.

If you have any questions, please contact me. Alternatively, you or a member of your staff may contact Michael Danilack, Deputy Commissioner, International (LB&I) at (202) 435-5000.

Sincerely,

A handwritten signature in black ink, appearing to read "S. T. Miller".

Steven T. Miller  
Deputy Commissioner for  
Services and Enforcement

Enclosure

Enclosure

**RECOMMENDATION**

To identify opportunities to improve the administrative processes and procedures that the Internal Revenue Service (IRS) uses to exchange information between the U.S. and its treaty partners, GAO recommends that the Commissioner of the IRS determine the key types of information that exchange program managers could use to ensure the program is working as well as possible. The Commissioner should specifically require the collection of (1) consistent and accurate data on specific tax information exchange cases, such as the extent to which requests for information are satisfied and the type of information requested, and (2) feedback from information exchange program users on how well the program is working and how it might be improved.

**IRS RESPONSE**

The IRS collects performance information and feedback regarding the Exchange of Information program and uses this information to make changes and/or improvements as necessary. We agree, however, that opportunities exist to improve the exchange of information between the United States and our treaty/Tax Information Exchange Agreements partners by utilizing more consistent and systemic ways to capture performance data and user feedback.

We concur with the recommendation set forth in the report and are taking steps to implement the collection of relevant performance data to improve our Information Exchange program.

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# Appendix VIII: GAO Contact and Staff Acknowledgments

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## GAO Contact

Michael Brostek, (202) 512-9110 or brostekm@gao.gov

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## Staff Acknowledgments

In addition to the contact named above, David Lewis, Assistant Director; LaKeshia Allen, analyst-in-charge; Gezu Bekele; Nicole Dery; Anna Draganova; Michele Fejfar; Robert Gebhart; Emily Gruenwald; Donna Miller; John Mingus; Ellen Rominger; Andrew Stephens; Jessica Thomsen; and Jeff Tessin made key contributions to this report.

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