

Barbados Tax News

December 2001

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In an effort to maintain its competitive advantage, Barbados recently introduced new offshore legislation and amended other statutes to remove anomalies which existed. Several new double tax treaties were also signed and ratified.

New protected cell/segregated account legislation

In August 2001, Barbados introduced protected cell and segregated account legislation. Essentially, this new law permits subscription to certain life and annuity contracts to be issued to the related investments segregated from other such contracts. In other words, the risks and benefits of each annuitant/beneficiary are segregated. This legislation provides a facility for those companies establishing captive insurance companies and who may wish to separate their risks by geographic location or by business division/product line. It also enables companies who may not be desirous of establishing their own Captive Insurance Company but wish to utilise the protected cell to achieve the same business objectives.

Amended legislation

During August 2001, several amendments were made to existing legislation designed to remove existing anomalies and to comply with the broad principles of the Anti-Money Laundering Act. Briefly, these changes are as follows:

Legislation affected:

International Business Companies Act (“IBCs”)

- The Caricom restriction on services was removed. IBCs are now permitted to provide services and sell goods anywhere in the world except Barbados.

- Licence fees increased to US\$ 250 from US \$100
- More information required for licence application and renewal including, details on type of activities to be undertaken and name of beneficial owner. Also, annual reporting requirements introduced.

Society with Restricted Liabilities Act (“SRLs”)

- The Caricom restriction on doing business was removed. International SRLs are now permitted to provide services and sell goods anywhere in the world except Barbados.
- The word “Exempt” used to describe those SRLs eligible for the lower tax rates and other benefits was changed to “International”.
- Licence fees increased to US\$ 250 from US \$100
- More information required for licence application and renewal including, details on type of activities to be undertaken and name of beneficial owner. Also, annual reporting requirements introduced.

Companies Act

- Annual reporting requirements introduced including need to file financial statements with the local Registrar of Companies and other information.

Exempt Insurance Act

- Ability for a branch to obtain an Exempt Insurance licence introduced. Applications process same as for locally incorporated companies.

New double taxation agreements

During May 2000, Barbados signed a double taxation agreement with China. The treaty was later ratified by both countries and is applicable from January 1, 2001. Barbados' treaty with Cuba was also ratified in 2000 and entered into force on March 16, 2000. In early 2001, Venezuela ratified its treaty with Barbados, which had been signed some time ago. This treaty is applicable from January 1, 2002. The highlights of these new treaties include:

Country	Dividends	Interest	Royalties
China	5%	10%	10%
Cuba	15%/5% ¹	10%	5% ²
Venezuela	15%/5% ³	15%/5% ⁴	10%

The treaties are based on the OECD model, and are expected to strengthen trade with Latin America and Asia and initiate trade with Cuba.

The protocol to the Barbados-Canada double taxation agreement, which we understand has been agreed in principle, has not yet been finalised.

Barbados had entered into negotiations and has initialled a double tax treaty with Malta. A date for signing and subsequent ratification has not been announced. This new treaty will provide an avenue for accessing Malta's extensive treaty network.

Qualifying Intermediary classification

On January 1, 2001, the regulations promulgated under section 1441 of the US Internal Revenue Code, 1986, became effective. These regulations apply primarily to US source interest and dividends paid to non-US persons. Briefly, a foreign financial institution that is a non-qualified intermediary will be responsible for providing significant documentation and customer information to the US financial institution with which it deals. This complexity is avoided by having the foreign financial institution (known as the "Qualifying Intermediary" or "QI") enter into an agreement with

¹ This reduced rate applies where the recipient owns more than 25% of the paying corporation.

² Copyright royalties are exempt from withholding tax.

³ This reduced rate applies where the recipient owns more than 5% of the paying corporation.

⁴ The reduced rate applies to banks. In all other cases the rate is 15%.

the US tax authorities, such that reliance is placed on the foreign financial institution's know-your-customer ("KYC") rules to identify the residency of customers. As a QI, the foreign financial institution is not required to disclose customer information to the US tax authorities or to the US financial institution with which it deals.

Because many businesses, both local and those operating in Barbados' international financial services sector, earn US-source income, PwC Barbados encouraged the Central Bank of Barbados to take the initiative to submit its application to the Internal Revenue Service to be recognised as a jurisdiction with acceptable KYC rules. In addition, several Barbados-based financial institutions have also obtained QI status.

We are about to embark on QI audits, which are required to maintain the QI status.

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