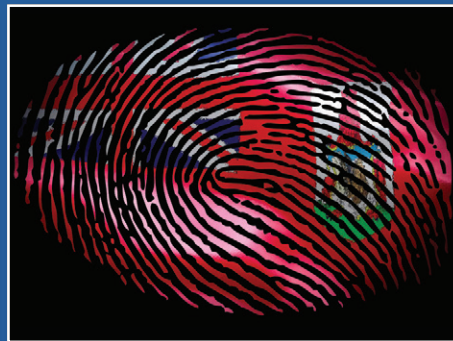




BERMUDA BUSINESS REVIEW



Meeting changing global tax requirements

By Scott Slater

The global tax system is rapidly changing and Bermuda, a respected and successful financial centre, has recently adopted a number of international initiatives in terms of tax transparency.

Bermuda is often seen as a tax neutral environment which draws international business due to its respected regulation, standards of compliance, pool of high-quality professionals and ability to transact with entities in other jurisdictions with minimal adverse consequences.

In recent years, the Bermuda tax environment has evolved from a tax compliance system primarily focused on the collection of payroll tax, import duty and stamp duty to now include a more complex system of information reporting.

This change began with the first reporting of account holder information required under the US Foreign Account Tax

Compliance Act (FATCA) in 2015. Shortly thereafter the OECD's Common Reporting Standard (CRS) and Country-by-Country Reporting (CbCR) initiatives were adopted by Bermuda, to allow for tax information sharing related to certain Bermuda-based financial accounts and entities, between the Government of Bermuda and various tax authorities across the globe.

Bermuda has over 100 country-specific Tax Information Exchange Agreements (TIEAs) in place which act as a mechanism for sharing of information with tax authorities. More recently, Bermuda has enacted Economic Substance legislation to ensure Bermuda-domiciled entities are



Member flags, OECD. By Johanna Muehlbauer / © Shutterstock



conducting sufficient activities in Bermuda to be able to enjoy the benefits of being Bermuda domiciled.

The Economic Substance Act requires Bermuda-based entities to annually file a declaration with the Government of Bermuda to document how the entity has met substance requirements, or confirm that the requirements are not applicable. The first reporting period (for entities with a December year end) will be due in mid-2020.

The factors so far outlined, serve merely as an illustration that Bermuda is participating in the aforementioned global tax initiatives to ensure transparency and maintain its status as a respected international financial centre. Whilst we have focused on enacted legislation, Bermuda is also actively monitoring new tax proposals including OECD-driven initiatives around an international tax system to address the digitalisation of the global economy; particularly as to how these proposed rules (which include the potential for a global minimum tax) may impact Bermuda's key industries.

Bermuda's main international business markets include mature industries such as insurance and reinsurance, asset management, shipping and aviation, to more emerging industries such as fintech, in particular insuretech, as well as digital assets.

The aforementioned tax reporting regimes discussed, apply across all Bermuda entities but regulation is also a key component of being Bermuda domiciled. Bermuda's primary regulator is the Bermuda Monetary Authority (BMA) which is globally respected for its oversight of various markets, including the Bermuda insurance industry. The EU awarded Bermuda full equivalence with its Solvency II regime which evidences the BMA's leadership in this space as only one other jurisdiction achieved such status.

REGULATORY SANDBOX AND A 'TECH' FOCUSED REGULATOR

In 2018, Bermuda enacted The Digital Asset Business Act (DABA) which placed the regulation of this emerging industry in the hands of the BMA. Alongside the BMA's regulatory

'sandbox' for insurance, Bermuda is at the forefront of the rapidly evolving digital industry.

There have been a handful of DABA licences issued to date as the jurisdiction only allows those that pass its regulatory requirements to move forward. In this way, an industry in its infancy can grow within a well regulated but business friendly environment. Also, what better place to grow new industries, as Bermuda is home to world-class talent, including lawyers, actuaries, accountants, auditors and other advisors servicing all Bermuda industries.

BERMUDA 'UNIQUE'

From an accounting perspective, Bermuda is relatively unique in so far as it does not have a prescriptive framework for general accepted accounting policies with companies permitted to adopt any globally recognised basis (e.g. US GAAP, IFRS, UK GAAP).

Bermuda's insurance industry is split predominantly between US GAAP and IFRS reporters, both of which are seeing significant upheaval owing to new insurance accounting standards (US GAAP Long Duration Target Improvements and IFRS 17: Insurance contracts respectively).

The implications of these standards on accounting profit profiles for historic books of business is expected to provide opportunities for deal activity within the long-term insurance sector in particular. Given the optionality available, Bermuda provides an attractive location for investors looking to establish new reinsurers looking to capitalise on the disruption created by the new accounting standards.



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Scott leads PwC's Caribbean region international tax services group based in Bermuda and the Cayman Islands, consisting of a team of approximately 30 tax specialists focused on assisting captive insurance companies, international (re)insurance companies and hedge and private equity investment funds with their US and international tax accounting, planning and compliance matters.

Prior to joining PwC Bermuda in 2005, Scott worked in the PwC Chicago office where he practiced in a variety of tax technical areas.