

Barbados

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Why Barbados is a compelling jurisdiction for business and investment

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Leading professional services firms in Barbados enjoy thriving practices advising global financial institutions, multi-national corporations and private wealth clients on high value transactions structured in or through Barbados. This often surprises people unfamiliar with the jurisdiction - a reaction which is typical - because for years Barbados has been renowned as an idyllic holiday destination, but has been little appreciated as an extraordinary place in which to reside and do business with local and global markets.

An exhaustive exposition of the incentives and concessions which benefit business conducted in or from within Barbados is beyond the scope of this article. What follows is an outline of key elements including transparency, the legislative and regulatory environment, business vehicles, tax and infrastructure.

Unlike many offshore financial centres, Barbados' strategy has always been to attract quality substantive business and to subscribe to the highest standards of transparency and exchange of information. Barbados' credibility in this regard was most recently demonstrated on April 2 2009 with the publication of the OECD's revised tax haven list. Barbados emerged as the only English-speaking Caribbean island to be included on the revised White List.

Barbados' legislative and regulatory environment is pragmatic and supportive to commerce. The government is committed to enhancements such as the anticipated Financial Services Commission Act which is expected to streamline and bolster the existing regulatory regime. The companies legislation is modern and flexible. Of particular relevance to anyone considering moving interests to Barbados are provisions for ready corporate

mobility into the jurisdiction and for the easy registration of local branches.

Barbados' international business laws provide for a range of corporate vehicles including international business companies, societies and banks and exempt or qualifying insurance companies (collectively IBVs). These IBVs may conduct business in or from within Barbados with other IBVs and non resident persons and entities. While the international banks and insurance companies are subject to greater regulation than the other IBVs, they all enjoy low corporation tax rates ranging from 2.5% to 1% depending on income levels as well as exemption from the following: exchange control restrictions; property transfer tax; ad valorem stamp duty (except in respect of local real estate); import duties and taxes relating to equipment to be used by the IBV; withholding tax on dividends, interest, certain fees paid to non residents and (except for international banks), royalties.

For domestic entities the corporation tax rate is 25%, although certain types of companies, notably manufacturing and property rental companies, enjoy a 15% rate. These rates can be mitigated using various tools designed by government to promote foreign investment. The valuable foreign currency earnings credit reduces effective corporation tax rates on a sliding scale depending on the level of profits made from foreign currency earnings as a percentage of total profits. Effective rates range between 16.25% and 1.75%.

Individuals are taxed at 25% on the first BBD\$24,200 (\$12,100) and thereafter at 35%. Specially qualified international business sector personnel may utilise exemptions applicable to a percentage of annual income as follows: 35% of income up to BBD\$150,000; 50% of income between BBD\$150,000 and BBD\$500,000; and 60% of income which exceeds BBD\$500,000.

Withholding taxes range between 12.5% and 25%, but are not imposed on payments between Barbados resident individuals or

Barbados companies. Happily no capital gains or inheritance tax is levied in Barbados.

With respect to double taxation general relief exists in the form of a credit allowed for taxes paid to any foreign jurisdiction on earnings made there. Barbados has also concluded double tax treaties (each a DTT) with each of Austria, Botswana, Canada, China, Cuba, Finland, Ghana, Malta, Mauritius, Mexico, The Netherlands, Norway, Seychelles, Sweden, Switzerland, United Kingdom, United States of America, Venezuela and with each of the Caricom nations. Further DTTs have been initialled with Italy, Spain and Luxembourg. These treaties allow for significant mitigation of withholding tax. The government considers the DTT strategy vital and presses on with expansion of the treaty network.

Investment treaties with countries such as Venezuela and Cuba consolidate Barbados' position as an investment hub for Latin America. In 2008 Barbados signed the Economic Partnership Agreement with the EU so increasing the attractiveness of the Caribbean to EU investors.

Barbados benefits from a cadre of highly qualified and experienced professionals, many of whom are members of firms with regional or global reach. The island's business infrastructure features advanced telecommunications and IT with related disaster contingency capability; reliable local utilities; and an international airport with daily flights to and from London, New York, Toronto, Miami, and several Caribbean islands. In addition, the banking system is sound and the economy is stable with the Barbados dollar having been tagged to the US dollar at 2:1 for over four decades.

Though still better known in some quarters for its exquisite natural beauty, near-perfect climate and excellent quality of life, Barbados has developed a progressive, well regulated environment supported by modern legislation and grounded in a long tradition of transparency. Add to all this a tax regime which promotes foreign investment and private enterprise, and the result is a desirable

jurisdiction in which to structure international transactions, establish global headquarters, invest locally and reside.

Financial and corporate

Recommended firms

Tier 1

Chancery Chambers
Clarke Gittens Farmer
Lex Caribbean

Tier 2

George Walton Payne & Co
Hanschell & Company

The economic recovery in Barbados has lagged behind its counterparts in the Caribbean, thank is large part to the poor performance of its tourism industry. "Things are tough in the economy as a whole," comments one partner. "I personally think it's going to be lean for another year or so." Concerns involving sovereign debt holdings in Europe and the overall sustainability of economic growth in the US have only fuelled such conservative predictions within the legal community.

Although domestic work has suffered under the economic downturn, lawyers have been resourceful in finding new avenues of business. Emerging market countries have provided firms with a large share of their activity, offering roles on transactions involving foreign investors and Chinese companies with underlying real-estate developments. "We've been doing a lot of China work lately," says one partner.

Meanwhile, firms with more a domestic focus have been hurt by the island's recent transition toward a more international business model. This shift has increased local competition and made transactions like the regional insolvency of Trinidad and Tobago insurance company Clico all the more valuable for more domestically tied firms.

The Barbadian government's efforts to expand its double taxation treaty network have positively impacted transactional activity for firms in the area. "It has brought us continuing work," says one partner. The government's most recent addition to its network has been Panama, who signed an agreement with Barbados in June 2010 that will build the political and economic relationship between the two countries. This addition to the tax treaty, as well as that of Mexico in 2008, inspires optimism among lawyers. "I think we are going to have more Latin American work," says one partner.

The law industry in Barbados witnessed a shift in how their clients approach choosing counsel. As they become more experienced with the firms in the jurisdiction, clients are making more informed decisions about the firms they choose to represent them. "We're seeing a real sophistication on the part our clients. Now we see three firms involved on transactions instead of six," says one partner. "There's a maturity in our environment that wasn't there before."

Chancery Chambers

Chancery Chambers' international focus and reputation has kept it in the top tier of firms in Barbados. Its principal lawyer Trevor Carmichael is widely known in the region and has assisted the firm with building its international relationships. "Dr Carmichael is highly respected in the industry," says one peer.

In 2009, the firm participated in a variety of transactions including the reorganisation of a prominent bank in Barbados. Chancery Chambers has also been involved in deals connected with investments and securities. International companies have sought the firm as counsel with listing and trading their securities on the Barbados Stock Exchange.

Leading lawyers

Trevor Carmichael

Clarke Gittens Farmer

Although Clarke Gittens Farmer was formed in 2002, the firm has developed a reputation in the market that is synonymous with quality. The firm advises both domestic and international clients on corporate, banking, and financial transactions. "We regard Clarke has a strong competitor," says a peer.

The firm's lawyers are admitted to practice in a variety of regions including Barbados, Jamaica and Trinidad & Tobago.

Leading lawyers

Gillian Clarke

Lex Caribbean

Lex Caribbean is known for its work on international transactions. Its clients include global financial institutions and corporations from the financial centres of New York, London, and Hong Kong. The firm also sees Mexico as being a new addition to its client base. Under the direction of Melanie Jones, the firm boasts a broad corporate practice with lawyers experienced in disciplines ranging from banking and finance to M&A and project finance.

In 2009 the firm advised a Canadian mining company in connection with its reorgani-

sation of numerous subsidiaries based in numerous jurisdictions like Barbados, England, and the Cayman Islands. The deal was led by Melanie Jones and closed for an undisclosed amount.

The firm also acted as counsel for Pueblo Viejo Dominicana Corporation, a Barbados international business company (IBC), and its parent Dominica Holdings in connection with the financing of the Pueblo Viejo gold mining project in the Dominican Republic. Lex Caribbean assisted in negotiating the project's financing, security arrangements, and project contract agreements. The transaction closed in June 2010 for \$1 billion.

Leading lawyers

Melanie Jones
Diana Wilson Patrick