

Isle of Man

Chamber of commerce:

Isle of Man Chamber of Commerce
17 Drinkwater Street ?
Douglas
IM1 1PP
Isle of Man
Tel: +44 1624 674 941
Fax: +44 1624 663 367
Email: enquiries@iomchamber.org.im
Web: www.iomchamber.org.im

Professional body:

Isle of Man Bar Association
27 Hope Street
Douglas
IM1 1AR
Isle of Man
Tel: +44 1624 662 910
Fax: +44 1624 679 232
Email: enquiries@iomlawsociety.co.im
Web: www.iomlawsociety.co.im

Changing perceptions of the Isle of Man

Nick Verardi
Appleby
Isle of Man

A report reinforcing the right of UK representation of Manx interests, is likely to play an important role in the continued aspirations of the Isle of Man to be accepted by the UK as a democratic self governing community. The report, penned by the House of Commons Justice Committee in April of this year, is demonstrative of the feeling that the Isle of Man has come under continued attack from the previous labour government.

For example, Stephen Timms, Financial Secretary to the UK Treasury at the time, commented that the Isle of Man, Jersey and Guernsey's corporate tax system was viewed as unacceptably predatory by some European States. In juxtaposition to Labour however, the Conservative-Liberal Democrat coalition published its programme for government referring to two interesting reforms; The first being to "create the most competitive tax regime in the G20" and the second, to significantly increase capital gains tax (CGT) for non-business assets to "close to those applied to income" (40% to 50%).

The Isle of Man's taxes are not high by international standards – the top rate of personal income tax is currently 20%, but nevertheless, thanks to 27 years of consistent economic growth, the Isle of Man has been able to build up substantial reserves of almost £1.5 billion. This is an exceptional achievement for an island with a population smaller than the town of Hastings. Moodys and Standard & Poor's have recently reconfirmed the government's AAA status and, thanks to a legal requirement preventing our politicians from budgeting for a deficit, this rating looks secure.

The Isle of Man did not fall into recession, seeing continued growth (around 2.5%) in 2009, largely because of the government's strategy of diversifying the economy by encouraging certain business clusters such as hi-tech manufacturing, e-commerce, clean tech, film, pensions and aircraft and yacht registration. Central to the government's strategy has been the creation of an environment to encourage and nurture businesses established on the island. by building relationships between itself and the private sector.

This positive environment, along with the country branding project to allow companies "the freedom to flourish", has meant that Government has been in a position to set tax rates (corporate and personal) at a level that it considers sustainable for many years to come. The island has not positioned its corporate tax rate in a predatory manner – it has just charged tax at a rate sufficient to provide public services to its residents.

Although the Isle of Man supports itself, and has constitutional autonomy over its taxes, we realise that we do not live in a vacuum. Therefore, our government has sought to comply, within the EU framework, with accepted international practices whilst still seeking to encourage profitable businesses to domicile on the Island.

The Isle of Man has taken its international status very seriously; long before the recent OECD White List was produced. In fact, the Island signed its first Taxation Information Exchange Agreement (TIEA) with the US in 2002. A further eight TIEA's were signed by 2007 and currently the Isle of Man is up to 15, with the list including Australia, Germany, France, New Zealand and the Netherlands.

As a further commitment to lead on the international stage, the Island has signed double taxation agreements with the UK, Estonia, Malta and Belgium based on the model published by the OECD and is currently in similar negotiation with numerous other states. It

has had two successful and complimentary IMF reports in 2003 and 2009 and in recently announced plans for the automatic exchange of information on savings interest with the UK and other EU member states.

Mr Timms warmly welcomed this move, and his comments were endorsed further by Lord Bach, the minister responsible for Crown Dependencies who commented: "This is a clear indication of their [the Isle of Man's] commitment to high standards of regulation and tax-transparency and shows that they lead the way in terms of how small jurisdictions with financial services centres should operate."

The Crown Dependencies do have something to contribute to the UK. At the beginning of last year the UK government decided to commission an independent report into the Crown Dependencies and the Dependent Territories. The report, authored by Michael Foot, examined the financial supervision and transparency, the taxation in relation to sustainability and future competence, financial crisis management and the international co-operation of these territories. In the report he specifically confirmed that the Isle of Man had a strong diverse economic base and a good framework for tackling money laundering and terrorist financing.

Most importantly, the report, with its supportive appendix from Deloitte, confirmed what most of us have known for a long time: the Crown Dependencies make a significant contribution to the liquidity of the UK market, providing net financing to UK banks of \$332 billion. Attacking the Crown Dependencies may cause these funds to be channelled to other markets.

Reports such as the Beith report and Foot Report, all play an important role in explaining and, where appropriate, re-affirming the relationship between the Isle of Man and the UK. They are particularly helpful in explaining the constitutional position of the Crown Dependencies to our European colleagues

who sometime fail to understand the subtleties of the position and the role the UK must play when representing us on the international stage.

Thankfully the debate in Westminster is becoming more informed as one MP, Mark Field, last month commented: "Too few people who now seek to impose regulation on offshore jurisdictions truly understand how those jurisdictions actually operate, their positive rankings of compliance with major international regulatory standards or their beneficial role in promoting investment and growth in the wider global economy."

He went on to say the mutually beneficial relationship between the City of London and many Crown Dependencies and overseas territories "demonstrated not only by the massive capital flows between the two which aid market liquidity and investment in the UK, but also legal and constitutional similarities and the transfer of skilled professionals".

So with the dawn of a new coalition government perhaps perceptions of the Isle of Man and the other Crown Dependencies are changing?

Financial and corporate

Recommended firms	
Tier 1	Appleby Cains
Tier 2	Simcocks
Tier 3	Callin Wild M&P Legal MannBenham Advocates

Although a lot less affected by the effects of the global crisis than some other jurisdictions, "the Isle of Man has not completely escaped the financial crisis" says one partner.

There has been a decline in key banking and lending cases in the Isle of Man, however the funds and investment sectors have remained constant in providing firms with work. The greatest growth though has been in insolvency, refinancing and restructuring cases. "Without a doubt, this practice area is generating the most attention and advice," says one market practitioner.

Alongside this, firms are seeing more M&A cases emerging, giving a positive sign that the market is returning. "There are encouraging signs on the stock exchange and the fact that insolvency is not the only sector doing well, shows that we are in a slow, but

nevertheless a recovery process," says one observer.

The Isle of Man has also seen a growth in work originating in Asia. "We have been gaining a lot of work from India, this is a trend we are seeing more and more," says one partner. Alongside this, another developing trend is from the electronic gaming sector. Firms are experiencing more work being generated from the gaming and betting sectors and firms believe this will be a trend that will be strengthened in the next few years. "Although there is a financial crisis, clients are not willing to give up their hobbies, such as poker. This sector is flourishing," says one partner.

Another area that firms are hoping to see flourish is the space sector. The Isle proudly holds itself up as the leading financial centre of investment in space and this in turn is leading to plenty of work for firms. "We are interested in developing the space sector," says one partner. "Some firms are already profiting and developing in this area".

Firms are also noticing that clients are more cost-conscious than previous years. "The general feel is that clients are shopping around more, even for larger corporate deals. The recession has pushed clients to do this and be more aware of what they can get for their money."

Appleby

Appleby is one of the best known firms in the Isle of Man, and despite the economic downturn the firm has completed its merger with Dickinson Cruickshank in October 2009. The merger has resulted in more work for the firm and a stronger client database.

One rival partner says: "The firm is the largest locally; their merger has definitely boosted their reputation on the island." Another competitor agrees: "I think that their firm is doing well, they are getting some good transactions. They are key players in the market."

Clients also appreciate the firm's skills: "We have used Appleby for a number of years; we keep coming back to them because of the professionalism of the lawyers, their knowledge and positively aggressive approach, a high-class firm. They also have a great approach, their turnaround of work is very fast, as people they are easy to get along with."

Simon Cain has been commended by rival peers for his approach: "He is a very diligent lawyer, he knows his market well, and he stands out from the other lawyers I have used before," says one.

Faye Moffett this year led the team for an Isle of Man borrower in connection with a \$1 billion syndicated loan facility. Another highlight last year saw the team advise on the

merger of two Isle of Man authorised insurers, Royal London 360 Insurance Company and Scottish Provident Life Assurance. John Melia led a team for Appleby on the deal.

"The firm is one of the largest in the Isle of Man, but we can't just commend them on their size, it has to be said that they set the standards, their work is of a very high standard," says one rival partner.

Leading lawyers

Nick Verardi
John Melia
Simon Cain

Cains

Cains' corporate practice has maintained its solid reputation within the Isle of Man. "Cains is a firm that has consistently been there, it has been involved in some great deals," says one client.

The firm has maintained a strong reputation amongst clients in the Isle of Man, "They are thoroughly professional and very thorough," says one rival partner.

The partner adds: "The firm has all skills and expertises needed to survive in the legal markets. I admire the way the firm works. I always recommend my clients [if] they're in a conflict issue. The firm are on par with Appleby; they set the standard and are very respected in the industry."

Andrew Baker and Mike Pinson have been singled out by other firms as the leading stars of the practice. "They give practical advice, they take a sensible approach and they are always very professional," says one rival partner.

Leading lawyers

Andrew Baker
Mike Pinson

Simcocks

"They are an excellent firm, they know their stuff," says one client of Simcocks. The firm has gained a large market share this year and has made its presence felt among competitors. "The firm have been active, working on some extremely good transactions over the last twelve months," says one client.

The team at Simcocks have been commended by clients for their approach to cases and of their working knowledge. One client says: "We are very impressed with David Spencer, his knowledge is top-level and his common sense approach is something that works for us. He also makes the complexities of law simple."

Another client adds: "Irina Newby is another name that should be mentioned from

the firm, she is very personable and always willing to assist, she can deal with anything. I quite like her.”

The firm has seen a downturn in standard transactions, but has seen a substantial growth in restructuring, refinancing and security deals, and has been involved in a number of schemes of arrangements with a multi-jurisdictional element.

The firm has been praised by peers for developing its international client database, which includes Bank of America, HSBC, Credit Suisse, DEG, RBS, Alliance & Leicester and the Barclays Bank Group. “The firm have a great client database, they have been advising some of the biggest players in the market,” says one peer.

One highlight this year saw Simcocks act for a BVI holding company on the refinancing of the company, which involved a cash injection of £30 million.

David Spender also led a team including Kevin O’Loughlin and Norman Teare on a project involving the Comet Group, The Warranty Group and Barclays Private Bank in relation to a warranty scheme.

One rival partner adds: “The firm should receive recognition for what they do, they are very good.”

Leading lawyers

Irini Newby
David Spencer
Philip Games

M&P Legal

“The firm are excellent, their responses were timely and they were great to have on side,” says one client. M&P Legal has had a busy 12 months advising on some noteworthy transactions. One client says: “The lawyers at the firm are very confident, they are very pleasing.”

The team this year acted for the lenders on the Isle of Man security law aspects in relation to HK\$1.5 billion (£12 billion) of loan facilities to a Hong Kong Stock Exchange-listed company and a proposed acquisition of an Isle of Man Aim-listed company.

The firm also advised the financing parties in relation to the restructuring and general corporate matters concerning a hotel gaming and casino group.

In addition, M&P advised a London-listed limited partnership in connection with the \$300 million placement of interests, the purchase by investors of 30 million global depositary receipts and the issue by such investors of over 23 million exchangeable redeemable notes.

Leading lawyers

Christopher Murphy

Other ranked firms

Callin Wild is a firm that has built its reputation on a more local basis, rather than an international one. “It’s one of the oldest firms in the Isle of Man, most of their clients tend to be local,” says one peer.

Leading lawyers: Jeremy Callin

MannBenham Advocates is another firm that tends to focus on local rather than international transactions. “The firm have a good network, but it’s all local,” says one rival partner.

Commentators were quick to point out that, apart from the well-regarded Tim Mann, the firm doesn’t have the depth of its peers. “Tim Mann is the star of the firm; he is the only thing that stands out in that firm. He is a good lawyer, pragmatic and hardworking,” says a peer.

Leading lawyers: Timothy Mann