

Bayshore Offshore Update – Q2 2008

May 2008



Bayshore Bank & Trust

Bayshore Bank & Trust Corporation, through its chartered operations in Barbados, offers a variety of financial services specifically designed for high net worth individuals and corporations. As a member of the Bayshore Group of Companies, Bayshore Bank has been serving investors for over a quarter of a century through its diversified financial operations. Bayshore uses a global network of strategic alliances to source “best-in-class” investment programs. Bayshore provides a true turnkey wealth management relationship from private banking facilities and investment management services, to trustee and corporate services.

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Barbados: Tax efficient conduit to China

One of the recent areas of rapid growth in the offshore market has been the use of Barbados based International Business Companies ("IBCs") to facilitate investment into China. The Barbados-China Tax Treaty is not new. The Treaty was signed in 2000, however its application towards the creation of efficient and effective investment structures is growing popular. Many double taxation treaties explicitly exclude IBCs or limit their benefits but the Barbados-China Tax Treaty does not. This inclusion of IBCs (and International Societies with Restricted Liabilities or ISRLs) confers all the benefits of the Barbados tax regime once a company is determined to be resident.

Determination of Residence

The Treaty clarifies the rules to determine residency in a specific country which in turn determines taxation by that country. A key to this determination, in addition to the location of the mind and management of a company, is the concept of “permanent establishment”. Permanent establishment is defined as a fixed place of business which would include a place of management, a branch, an office, a factory or a place of natural resource extraction (i.e. an oil well). Certain activities, if undertaken for a period greater than 6 months, such as a building project site, consulting services or operating a drilling rig may also be considered permanent establishments. Permanent establishments are taxed wherever they reside as are gains from the disposition of and income from immovable property, a term which is defined in each country. Property holding companies, however, would only be taxed in their country of residency as long as they realize capital gains from property that is not immovable property or associated with a permanent establishment.

Barbados: Tax efficient conduit to China (cont'd)

A permanent establishment does not include the use of an agent or activities that are auxiliary or preparatory in nature such as the purchase of goods or facilities for the purpose of display, delivery or storage for the business. In such cases, income will only be attributed to the business's country of residence.

Withholding Taxes by Type of Income

Interest and royalties received from China are subject to a 10% withholding tax. Dividends received from China are subject to a 5% withholding tax. Net income earned by an IBC or ISRL from these sources is then taxed at Barbados tax rates (described below). Capital gains, if not associated with immovable property or a permanent establishment, are not taxed in China. Since Barbados does not tax capital gains, an IBC or ISRL would not pay tax on gains received.

An Example

A Canadian company, Canco, is considering doing business in China. For tax efficiency reasons, it may be preferable to establish an IBC in Barbados, which in turn would acquire the shares in the Chinese company (this could be a wholly owned subsidiary structure or not). Under the treaty, no capital gains tax would be payable in China or Barbados on gains realized from the eventual sale of the shares. In addition, there would be no tax deductions on the proceeds when remitted back to Canada to the corporate parent. The same treatment should also be available to U.S. companies investing in China

IBC Benefits

IBCs (and ISRLs) are exempt from withholding taxes, stamp duties and foreign exchange controls. Income is taxed at a rate between 1.0% and 2.5% subject to a 1.0% minimum. Importantly for Canadian companies, an IBC's after-tax "active business" income may be repatriated to a Canadian parent corporation as exempt surplus without further taxation. The use of a Barbados IBC is a powerful tool in structuring investment into China. In addition to tax benefits, investors also benefit from the use of a stable, highly professional jurisdiction that has a high level of infrastructure and an well established rule of law.

An Essential Tool

As for many companies, consideration of a Barbados subsidiary is a standard checklist item when establishing a tax and financial plan. Companies planning to invest in China are no different – consideration of a Barbados IBC is an essential element to consider when designing a financial structure.

Bayshore's Corporate Service department can establish a cost effective IBC quickly and efficiently and ensure that your clients get the full benefits available under the Barbados/China Treaty. **Contact Philip Kingston at (246) 430-8650, ext. 645 or email pkingston@bayshore-international.com.**

Spotlight – Trust Services

The Trust Services Department of Bayshore Bank is growing steadily and has 8 staff members including trust administrators, trust accountants and TEP qualified client relationship managers. The team is headed by Deborah Simmons, an Attorney-at-Law who brings a wealth of knowledge and experience to the business having over 15 years experience in the Offshore Industry including working for a number of years in the Cayman Islands and the British Virgin Islands.

Bayshore Bank and Trust is an industry leader in the area of private banking in Barbados. The team establishes a partnership with its clients, and assigns and dedicates experienced and highly skilled Client Relationship Managers to administer its high net worth client portfolio. This allows the client to have the comfort and confidence that all of their needs and objectives are successfully managed with a focus on relationship continuity and responsive service.

The team works very closely with tax professionals and advisors in several parts of the world that assist with tax planning, estate and succession planning, and wealth preservation.

Bayshore also offers alternative Trustee Services through our sister company, Private Counsel Trust in the Turks and Caicos Islands.

For further information contact Deborah Simmons at (246) 430-8650, ext 669 or email dsimmons@bayshore-international.com

2008 Election - Reinforcing Barbados' Reputation for Stability

On January 15, 2008, the Democratic Labour Party (the "DLP") defeated the ruling Barbados Labour Party (the "BLP" or the "Bees") after 13 years of BLP government. David Thompson, DLP leader and the new Prime Minister, led his party to a majority government winning 20 of 30 seats. Owen Arthur, the former prime minister, won his parliamentary seat but stepped down as leader of the opposition, a position now held by Hon. Miss Mia Mottley.

Importantly, two of Prime Minister Thompson's first public speeches were to the Barbados Chamber of Commerce & Industry and the Barbados International Business Association. In those speeches, he reaffirmed his support for the private sector and the important role that the international business community plays in Barbados.

Some of the new ministers are:

Hon. David J.H. Thompson - Prime Minister and Minister of Finance, Economic Affairs and Labour, Civil Service and Energy

Hon. Freundel J. Stuart - Attorney General and Minister of Home Affairs

Hon. Donville O'N. Inniss - Minister of State, Ministry of Foreign Affairs, Foreign Trade and International Business

Hon. Christopher Sinckler - Minister of Foreign Affairs, Foreign Trade and International Business

A full list of the members of parliament, the senate as well as other government related resources can be found at www.barbadosparliament.com.

Mexico-Barbados Tax Treaty Signed

On April 9, 2008, Prime Minister Thompson announced the signing of a double taxation treaty with Mexico as part of Barbados initiatives to expand its economic ties with Latin America (The treaty with Venezuela was signed in 1998).

Useful Links



An excellent resource for international business and investment. BIBA has been representing and serving the international business community since 1993. www.biba.bb



Barbados Investment and Development Corporation www.bidc.com



Barbados Chamber of Commerce www.bdscham.com



Our personal favourite, The Barbados Tourism Encyclopedia www.barbados.org

Barbados Spotlight – Harrismith Beach

Harrismith Beach is a typical south coast beach. Framed by dramatic cliffs, the bright white sand and turquoise waters make the beach perfect for a secluded, quiet day at the beach. The strong surf from the Atlantic makes swimming a challenge but ample tide pools provide a refreshing splash as one explores the coastline including the ruins of the arcaded mansion built by R.H. Taylor in 1920.

