

# Bayshore Offshore Update – Q4 2008

December 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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## Update - Non-Resident Trust and Foreign Investment Entity

**By Paul LeBreux, Chief Counsel**

It has been almost ten years to the day that Canada's then Minister of Finance proposed new tax measures aimed at overhauling the method for taxing “non-resident trusts” and “foreign investment entities”. These new tax measures were said to be needed to combat what the government had long perceived as an abuse of the Canadian tax system. Since the introduction of the controversial initiative, the implementation of the legislation has been delayed numerous times and the Draft Legislation has been released, each time with substantial amendments, no less than six times. Although the Draft Legislation continues to have an effective date of January 1, 2007, it would seem that the likelihood of these proposals being proclaimed as law has significantly diminished.

### International Tax Fairness Initiative

As part of Canada's March 19, 2007 Federal Budget, Canada introduced certain international tax measures to address both international tax avoidance and international tax evasion issues. These measures were contained in the Federal Budget “International Tax Fairness Initiative”. To support these initiatives, the Government of Canada created the Advisory Panel on Canada's System of International Taxation: the Panel's mandate being to make recommendations to guide the government in establishing an international tax policy framework with respect to investment abroad by Canadian businesses as well as investment into Canada

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by foreign businesses. Although the Panel was not given the specific mandate of evaluating the NRT and FIE legislation, it was clear that their views would carry significant weight in determining the future direction of this legislation.

### The Panel's Report

The Panel released its Final Report "Enhancing Canada's International Tax Advantage" on December 8, 2008. Amongst a number of recommendations made by the Panel, the Panel concluded, as follows, with respect to the NRT and FIE proposed rules:

**4.103 The Panel believes that our recommendation to adopt a broader exemption system raises questions about the scope and interaction of Canada's existing anti-deferral regimes. In particular, the Panel believes that the proposed FIE and NRT rules should be reconsidered to ensure that their need and scope are consistent with the Panel's recommendations and the principles in Chapter 3 regarding the international taxation of outbound investments by Canadian businesses.**

**4.104 The Panel has concluded that the government should undertake a fresh review to coordinate the FAPI, FIE and NRT regimes. This review should aim to ensure all passive income is taxed on an accrual basis and to focus the scope of these rules so they do not impede bona fide commercial business transactions.**

**4.105 Also in line with the Panel's principles, any proposed change to the scope and interaction of the anti-deferral regimes should undergo full consultation.**

### Conclusion

The conclusion to reconsider the proposed NRT and FIE rules and to undertake a fresh review of Canada's anti-deferral regimes will hopefully now be the impetus to abandon the NRT and FIE proposals, in their current form and hopefully pave the way for a system that better addresses the concerns and recommendations put forward by international tax practitioners for nearly a decade.

## Spotlight – Private Banking Services

Bayshore Bank & Trust is an industry leader in the area of private banking in Barbados. We offer an attractive selection of banking services including cash management, multi-currency money market, foreign exchange and term deposit services.

Individual high net worth investors and corporations can develop a customized service that meets their international financial needs in collaboration with our trust and corporate service departments.

## Barbados Cabinet Shuffle

Prime Minister Thompson recently made some changes to his 18 member cabinet. Some of the new ministerial portfolios are:

**Hon. Freundel J. Stuart** – Deputy Prime Minister, Attorney General and Minister of Home Affairs

**Hon. George Hutson** – Minister of International Business and International Transport

**Senator the Hon. Maxine McClean** - Minister of Foreign Affairs and Foreign Trade

**Hon. Donville O'N. Inniss** – Minister of Health (formerly Minister of State, Ministry 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](http://www.barbadosparliament.com).

## Netherlands-Barbados Tax Treaty Update

The Barbados-Netherlands tax treaty became effective January 1, 2008, which allowed for receipt of dividends with 0% withholding tax where the shareholding of a subsidiary was greater than 10%. Due to a favourable change in the domestic tax laws of Barbados in 2007, dividend payments to non-residents could be made with a 0% withholding tax rate as well. In comparison, companies using a Dutch Antilles company as a parent company faced an approximately 8% withholding rate. Currently the Netherlands and Barbados are discussing possible amendments to Article 10 of the treaty. The imposition of a withholding tax or a significant tightening of the rules for qualification to use the treaty are two possible outcomes of the discussions. Resolution of the issue is expected sometime in Q1, 2009.

## Barbados Spotlight – Crane Beach

Crane Beach is one of Barbados’ most famous beaches. Overlooked by the Crane Hotel, the beach offers crystal white sands, beautiful scenery and convenient amenities. Cutters, a nearby gourmet deli, can prepare a picnic to help you make the most of your day at the beach. Whether traditional fare, such as the signature flying fish cutter or their award winning rum punch, make sure to stop by so you can enjoy the beach “Bajan style”.



## 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](http://www.biba.bb)



Barbados Investment and Development Corporation [www.bidc.com](http://www.bidc.com)



International Business Unit (Ministry of Foreign Affairs, Foreign Trade & International Business) [www.barbadosbusiness.gov.bb](http://www.barbadosbusiness.gov.bb)



Barbados Chamber of Commerce [www.bdscham.com](http://www.bdscham.com)



Our personal favourite, The Barbados Tourism Encyclopedia [www.barbados.org](http://www.barbados.org)