



# IBFS NEWS

With a focus on the International Business and Financial Services Sector

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## Barbados International Business Update

In his Financial Statement and Budgetary Proposals delivered in the House of Parliament on June 26, 2012, the Minister of Finance announced the following changes to the taxation of companies operating in the Barbados international business sector as well as new immigration policies aimed at encouraging high net worth individuals (HNWI) to relocate to the Island.

### Changes to the Tax Rates Applicable to the International Business Sector

The Minister of Finance announced that effective January 1, 2012 the top marginal rate of tax applicable to the taxable income of international business companies, international societies with restricted liability and international banks in excess of US\$15 million will be reduced from 1% to 0.5%. It is also proposed to reduce this rate even further to .25% for 2013 and subsequent years. In addition, for those companies claiming a foreign tax credit, the limitation that the credit can not reduce the Barbados tax on the company's taxable income to less than 1% will also be amended so that the limitation will be reduced to 0.5% for 2012 and 0.25% for 2013 onwards.

The list of activities carried on by regular Barbados companies that qualify for the foreign currency earnings credit is also being extended to include exploration and exploitation activities, such as mining and oil and gas activities, as well as shipping services and licensing and sublicensing of intellectual property. **Continued on Page 2**



Ben Arrindell

## Barbados Moves to Phase 2

Following G20 concerns about international tax evasion and the impact on their members' tax revenues, the Group has placed emphasis on the implementation of international standards of transparency and exchange of information to effectively address the problem.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is charged with in-depth monitoring and peer review of the implementation of the international standards. The standards which are primarily reflected in the OECD model agreements provide for international exchange on request of foreseeable relevant information for the administration or enforcement of the domestic tax laws of a requesting party. **Continued on Page 2**



Kaeron Venner

## Barbados International Business Update (Continued)



### New Immigration Policies

The Finance Minister also announced new immigration policies applicable to, inter alia, High Net Worth Individuals who wish to relocate to Barbados. Under the new policy, the individual can apply for a Special Entry Permit ("SEP") as follows:

- Category 1 – An individual who is aged 60 or over and retired will be granted a SEP for an indefinite period. Such an individual will be permitted to work for a Barbadian company, i.e. either a regular Barbados company or an international business company, international society with restricted liability or an international bank, on payment of a work permit fee in addition to the SEP fee.
- Category 2 - An individual who is under 60 years of age and retired will be granted a SEP for the period until he reaches the age 60 at which time he will be able to apply for a SEP for an indefinite period. In addition to the evidence of wealth and satisfying the necessary security criteria mentioned below, the individual will be required to show that some of his income will be taxable in Barbados. If he wishes to work for a Barbadian company, an additional fee will be payable.
- The individual's spouse, as well as dependents under 18 years of age, will be granted a SEP for the same period as that granted to the individual. The spouse will be able to work but will require a work permit.

In order to be able to apply for the SEP under the new rules, the individual must demonstrate that he has:

Net assets worldwide in excess of US\$5m. There is no requirement for the assets to be located in Barbados;

Medical insurance to the value of US\$375,000 (persons under 50) and US\$500,000 (persons over 50); and

Satisfied the security requirements, i.e. no criminal record etc.

It is expected that the approval process will take approx. 3-6 months from the date of application.

### Changes to the Taxation of Foreign Income of Individuals

The above changes to the immigration policies are complementary to the recent amendments to the Income Tax Act under which any foreign income that is remitted to Barbados by an individual who is resident in Barbados, will be entitled to a foreign currency earnings credit. The amount of the credit will depend on the ratio that the individual's foreign income remitted to Barbados bears to his total taxable income. Where the remitted income is at least 81% of the individual's taxable income, the credit will be 93% of the Barbados tax. At the current top marginal rate of tax of 35%, the credit will reduce the effective rate of tax to 2.45% ( $35\% \times 7\%$ ). Foreign taxes paid on the overseas income can also be credited in full against the tax payable in Barbados.

### Double Taxation Agreements

Barbados currently has double taxation agreements ("DTAs") in force with 31 countries. However, there are another 10 new DTAs that have either been initialled, signed or that are under active negotiation, including agreements with Belgium, Chile, Italy and the recently initialled agreement with the Slovak Republic. In addition, the Barbados Government has indicated that it intends to continue to expand its network of DTAs and bilateral investment treaties. In this regard, negotiations are expected to commence with a number of other countries, including Columbia, in the near future.

- Mr. Ben Arrindell, is a Director, Cidel Bank & Trust Inc., an International Tax Consultant and adviser to the Government of Barbados on tax matters.



### Barbados Moves to Phase 2 (Continued)

Following G20 concerns about international tax evasion and the impact on their members' tax revenues, the Group has placed emphasis on the implementation of international standards of transparency and exchange of information to effectively address the problem.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is charged with in-depth monitoring and peer review of the implementation of the international standards. The standards which are primarily reflected in the OECD model agreements provide for international exchange, on request, of foreseeable relevant information for the administration or enforcement of the domestic tax laws of a requesting party.

All members of the Global Forum, as well as jurisdictions identified by the Forum as relevant to its work, are reviewed. The review process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework.

The ultimate goal is to help jurisdictions to effectively implement the international standards. Barbados' Phase I review was undertaken in 2010 and its report was published by the Global Forum in January 2011. The report concluded that elements which are crucial for achieving effective exchange of information were not yet in place in Barbados and recommended that the country not progress to Phase 2 until certain recommendations for correction were acted upon.

In accordance with Global Forum arrangements, Barbados sought a supplementary review to address the two main areas related to the country's exchange of information mechanisms and its network, which were considered not in place. At February 2012, Barbados had signed four Double Taxation Agreements, three Tax Information Exchange Agreements and four protocols to existing DTAs. Also three DTAs signed during the Phase I Review entered into force. A significant factor in its favour was the signing of the Canada Protocol which ensured that Barbados had Exchange of Information instruments to the standard with two of its major partners, Canada and the United States of America.

Following on these developments, the Global Forum on Transparency and Exchange of Information for Tax purposes published on April 5, 2012, the Phase I Peer Review Report on Barbados endorsing the Peer Review Group's recommendation that Barbados should have its Phase 2 Peer Review in 2013.

The Supplementary Report stated "Given the progress made by Barbados since October 2010 to its legal and regulatory framework for transparency and exchange of information, in particular in respect of the elements that were found to be "not in place", the Phase 2 review of Barbados will take place, in accordance with the schedule of reviews adopted by the Global Forum, during the first half of 2013. The Phase 2 review will consider in detail Barbados' response to the recommendations remaining in this report, as well as the application of the legal framework to the practices of its competent authority."

In preparation for its Phase 2 Review, the Cabinet of Barbados has established a Committee of key agencies to drive the process and ensure Barbados' success. The Committee is chaired by the Permanent Secretary in the Ministry of International Business and International Transport and comprises

- Ministry of International Business and International Transport
- Ministry of Finance
- Inland Revenue Department
- Central Bank of Barbados
- Corporate Affairs and Intellectual Property Office
- Chief Parliamentary Counsel
- Financial Services Commission.

Since the Phase 2 review largely involves implementation in practice, the Country's Commissioner of Inland Revenue and her Department as the Competent Authority, will play the major role. That Department has already been involved in two conferences designed to prepare countries and their Competent Authorities for Phase 2. Barbados in conjunction with the Global Forum Secretariat will also host a seminar later this year specially to prepare Caribbean countries that will have their Phase 2 Review in 2013.

Barbados since 1998 has had to grapple with a number of international initiatives which have impacted its international business and financial services sector. Among these initiatives were those of the OECD and in more recent times the Global Forum. In spite of some setbacks, Barbados has stuck to the task of ensuring that its legal and regulatory framework meets international best practice standards and Judging by the licences issued for 2011, Barbados still remains a highly reputable jurisdiction of choice where investors can conduct their international business activities. Furthermore, going into Phase 2, Barbados starts with the experience of having more than thirty (30) years exchanging information with its treaty partners.

\* Mr. Kaeron Venner is the Director, International Business in the Ministry of International Business and International Transport in Barbados.





Henderson Holmes

## BIBA: Comments on 2012 Budget

The Barbados International Business Association (BIBA) is happy about the recognition paid by the Minister of Finance Christopher Sinckler to the major foreign exchange earning power of the international business sector in his 2012 Financial Statement and Budgetary Proposal.



The 2012 national budgetary submission was a measured one which took into account that, given Barbados' heavy dependence on foreign exchange to satisfy its high fuel and food import bills, a greater thrust would have to be made to bolster the earning capacity of international businesses as net earners of foreign exchange for the country.

BIBA welcomed the lowering of the taxes levied on international business entities, which would not only prove attractive to investors in the traditional Canadian market, but would also provide Barbados with a highly marketable low tax scale that would be attractive to those in other jurisdictions that the island was now courting, such as those within the Latin American markets.

Minister Sinckler's projections of a tax revenue loss in the first year of implementation was realistic, but BIBA is confident that these tax cuts will lead to an increase in the volume of business brought to Barbados over time, which would more than compensate for the initial loss.

Similarly, the provisions to allow high net-worth individuals a secure long-term status in Barbados, through which they could comfortably live, work, retire or invest on the island, was also welcomed by BIBA. Beyond the wealthy individuals in the United Kingdom cited by Minister Sinckler, preliminary market research by BIBA has also shown that there is genuine appetite in North America for such incentives.

However, the power of these new measures to attract the foreign investment to which it was targeted will fall short unless government is equally prepared to make major reinvestment into the marketing and promotion of Barbados as a choice jurisdiction from which to do international business.

While appreciating the demand on limited public funds, the multi-million dollar reinvestment in tourism promotion announced by the Minister far exceeded what was allocated to the agencies charged with investment promotion. BIBA found this disappointing given the more than \$667 million pumped into economic circulation by international businesses in Barbados, as cited by the Minister.

Moreover, even if the amount spent on marketing and promotion

was increased, more would also need to be done to keep the businesses and investors here. In this regard, it is felt that measures to improve overall delivery and efficiency of services critically important to business development were missing from the budget. Barbados is often criticised as a high-cost location, but this could be reduced by removing the inefficiencies that curtail local and international businesses from further stimulating economic growth.

BIBA continues to look forward to the House of Assembly's "international business legislation day" that was promised by the Minister to follow the post-Budget break as there were several suggestions made by BIBA regarding pieces of legislation that could distinguish Barbados even further as an international business centre, once implemented.

\* Mr. Henderson B. Holmes is the Executive Director, Barbados International Business Association.



Dr. Trevor A. Carmichael

## International Supervision: And the Beat goes on...

For insurance domiciles in the Caribbean and mid-Atlantic, the question of Europe's Solvency II Directive is a matter of some debate and quiet concern. While that debate is mainly concentrated in the jurisdictions of Bermuda and Cayman, and does not generate much discussion in Barbados, yet it still has more than local passing interest.

Since the core objective of the directive is the matter of international equivalence, it therefore highlights the importance of international regulation, and more particularly the role of the International Association of Insurance Regulators (IAIS). One of that body's main objectives is the production of supervisory materials which ensure stable insurance markets for policyholder protection. A key mechanism used by IAIS is the publication of its Insurance Core Principles (ICPs) which are constantly under review. The 2008 review produced the legendary document "Guidance Paper on Captive Insurers". A critical core principle is the recommendation for firms to make relevant and timely reports to their Supervisors of Insurance, so as to clearly disclose their business activities, financial positions and potential risk exposures.

Recently in June of this year, the IAIS held its global summit in the Cayman Islands where it signed a Memorandum of Understanding with the International Actuarial Association (IAA). This formal collaboration cemented an old and enduring mutual cooperation ethos between these two regulatory and industry groups in areas of risk management, stress testing, solvency and financial stability as a whole. Comprising over one hundred and twenty insurance supervisors and industry representatives, the IAIS therefore remains a key player in the maintenance of international best practices and regulatory standards.

The Solvency II directive is still a work in progress with possible captive "carve outs", and there is presently no certainty as to its ultimate true meaning. While Bermuda seems favourable, Cayman remains sceptical, and Barbados is not likely to be rushed. The latter two jurisdictions possess a more variegated insurance industry than Bermuda and therefore recognise the importance of ultimate settling of the terms of Solvency II before any firm decision may be made.

All three jurisdictions however recognise the importance of local and global regulation. Barbados' own regulation is now subsumed within the Financial Services Commission (FSC), and it continues to be part of the IAIS. The journey continues.

Earlier this year, the Central Bank of Barbados (CBB) held its second annual seminar on the International Business Financial Services (IBFS)

sector at the Lloyd Erskine Sandiford Centre, examining topical issues, current challenges, and the essential supporting roles ascribed to various public sector agencies.

The slate of presentations reflected concerns about the ongoing global economic uncertainty, swiftly changing international regulatory guidance, and changes in law and practices abroad --- all of which force Barbados to be nimble and dynamic in its responses.

Discussion throughout the day underscored the need for Barbados to stay 'on top of our game', while consistently monitoring new developments at the global level, as well as what is happening in specific jurisdictions. The way forward includes ongoing collaboration and exchange of information among key players, and maintaining vocal and active participation in the various consultative groups and watchdog agencies where we have gained representation.

\* Dr. Trevor A. Carmichael, Q.C., Principal of Chancery Chambers, is an Economist and Attorney at Law who has written extensively in the areas of Law, Economics and Public Policy.



Dr. DeLisle R Worrell

## Maintaining Policy Independence

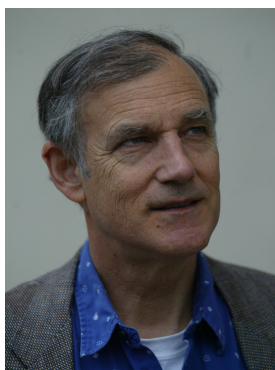
The Barbadian economy depends on foreign exchange to finance the variety of imports which support our standard of living. Because of this, it has been necessary to cut the fiscal deficit to reduce overall spending on imports in the face of the slowdown in tourism and the international business and financial services sector. Fiscal restraint has helped to keep the external accounts in balance, and the foreign reserves of the Central Bank have been maintained at about the same level as at the onset of the crisis in 2008. This means that the exchange rate is secure, and the economic direction of the country remains firmly in the hands of Barbadians, both in the private sector and in Government. Going forward, the growth strategy focuses on private investment in the sectors that earn and save foreign exchange, supported by appropriate Government incentives and investment in infrastructure.

Barbados is a private sector led economy; economic growth is driven by the investment decisions of forward-looking firms and individuals seeking to exploit profitable opportunities. Government's role is to support the private sector with incentives and an

enabling environment, including the provision of efficient public services. While investment in all sectors is needed, growth cannot be sustained unless there are additional foreign exchange inflows, sufficient for the additional import needs of consumers and producers. For this reason, growth is sustainable only when led by the foreign exchange sectors. The sectors which earn or save foreign exchange, or have the potential to do so, are tourism, international business and financial services, agriculture and agro-processing, and alternative energy production. **(The full text of this article may be found at [www.centralbank.org.bb](http://www.centralbank.org.bb))**

\* Dr. DeLisle Worrell is Governor of the Central Bank of Barbados.





Bruce Zagaris

## New US BIT Model and ICC Principles on Cross-Border Investment: Opportunities for Barbados

On April 25, 2012, the Office of the United States Trade Representative issued its reviewed model bilateral investment treaty (BIT). The release of the 2012 model BIT by the US is the first revision since the 2004 model BIT. It tries to strike a balance between providing strong investor protections and preserving the government's ability to regulate in the public interest. The Obama Administration's BIT provides significant changes from the prior model to improve protections for US firms, promote transparency, and strengthen the protection of labor rights and the environment. Because of the revision of the US model BIT, the US has not negotiated any BITs during the Obama Administration.

BITs should be an important weapon in the international business and tax planner's arsenal, because they sometimes provide rights and remedies to rectify disputes over an investor's inability to secure the protections afforded an investor under a BIT with respect to tax issues. Even more important, for a potential investor a BIT offers a number of non-tax advantages in cross-border investment. Bilateral investment treaties confer national or most-favored-nation treatment for investors, internationally recognized standards for compensation in the event of expropriation, free transfer of capital and profits, and procedures for dispute settlement, including the alternative of international arbitration of investment disputes, if necessary.

International investment disputes are increasing. There are not enough rules and mechanisms in place to deal with the number of international investment disputes that are growing as a result of globalization. More and more countries are deliberating investment and are imposing protectionist measures. Another trend is that 52% of transnational investment is with developing countries. As a result of the above-mentioned trends, almost simultaneously with the issuance of the revised US model BIT, the Commission within the International Chamber of Commerce and the International Committee for US Business decided to revise the ICC principles on cross border investment. The principles have not been revised for forty years. The revisions occurred through international groups within the ICC. There are many changes in the new principles. These developments (revised US model BIT and revised ICC principles) offer an opportunity for Barbados to energize and increase its BITs both to attract direct investment in Barbados and to facilitate Barbados investment, including its international services and joint ventures abroad.

\* Mr. Bruce Zagaris, Esq., is an Attorney at Law and partner, Berliner

Corcoran & Rowe LLP, Washington, D.C. He is also an adviser to the Government of Barbados.



Laurie Blackman

## Interesting Mix of News + Analysis in 'International Enforcement Law Reporter'

Looking for a reliable guide to breaking news in the difficult and dynamic field of international enforcement law? Since its establishment in 1985, the [International Enforcement Law Reporter](#) (IELR) has been covering the premier developments of all aspects of this sector.

The August 2012 issue included a report on the new alternative approaches to implementing the FATCA which Switzerland and Japan each negotiated with the US Treasury Department recently. Privacy rules and other foreign domestic legal obstacles were cited as the main drivers behind the negotiations. The newsy IELR homepage also features links to other reputable sources of information, recently posting an article from the [Accounting Today](#) website which reported on the 5 European governments who have signed model intergovernmental agreements for implementing FATCA. Articles appearing in the monthly publication reflect the knowledgeable reporting and expert analysis of Bruce Zagaris (founder) and a team of practitioners, academics, and law enforcement officials. On the homepage are articles and opportunities to comment, as well as links to information on subscribing, submissions, and a fully-searchable database of current and past articles. IELR's October 2012 issue is now in circulation..

\* Ms. Laurie Blackman is Senior Librarian at the Central Bank of Barbados.





**Sadie Dixon**

## **Lawyers Sharpening Their Skills in Effort to Capture More International Business**

Local lawyers are honing their skills to better cope with the widespread and rapid changes in the international business sector.

The Barbados Bar Association, the Central Bank of Barbados and Messrs George Walton Payne and Associates, recognising the significance of sustaining a vibrant international business sector in Barbados and being cognisant of the crucial role that attorneys-at-law perform in this sector, will host a seminar for attorneys-at-law on November 17, 2012 at the Grande Salle of the Central Bank of Barbados from 10 a.m. until 3 p.m. The seminar is expected to attract recently admitted attorneys- as well as practitioners who desire to diversify their practices.

Presentations will be made by reputed practitioners in the international business sector, including Mr .Andrew Thornhill, partner with George Walton Payne and Associates who will highlight some of the types of international business transactions conducted, the expectations of international clients and pertinent strategies of which the local attorney must be aware. Ms Lynette Eastmond, attorney -at-law, will focus on demystifying international tax issues and an in-depth discussion is anticipated on exploiting the Double Taxation Agreement (DTA). The structure of the programme is as follows:



The Rigour of Practice as an International Business Attorney - Establishment and Management of a Successful International Business Practice

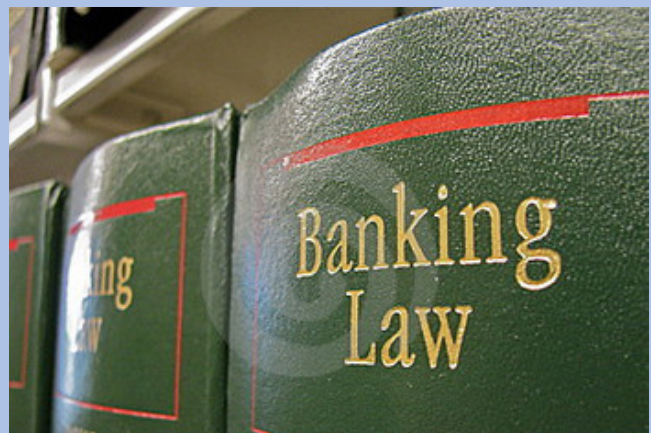
International Tax Law in Perspective

Understanding and Exploiting the Double Taxation Agreement

Why Barbados? The Investor's Expectations of Service Providers, Including the Attorney-at-Law

Licensing Procedures under The International Financial Services Act, The International Business Companies Act, The Societies With Restricted Liability Act

This training takes place as the international business sector in Barbados continues to undergo several metamorphoses in the face of constant challenges to its competitiveness. With an enviable Double Taxation Tax Treaty and Tax Information Exchange Agreements



network, Barbados theoretically has positioned itself to attract sound international banks, re-insurance companies and soon foundations and private trusts to its shores. But, in spite of the commendable efforts of successive administrations to provide an enabling environment that facilitates a robust sector, success has not been as anticipated.

Barbados' international business services providers, though highly skilled professionals in their particular disciplines must therefore constantly re-equip themselves to respond to the continual metamorphosis that is evident in this sector.

“ Against this background, this initiative will be one of many in which the Bank partners with the Barbados Bar Association, in an effort to provide support for the international business sector, which has undergone several metamorphoses in the face of constant challenges to its competitiveness,” the organisers said.

\*Ms. Sadie Dixon is the Bank Secretary/Legal Counsel (Ag) at the Central Bank of Barbados.

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