Taxation in the Cayman Islands

By Richard Mansi

There are several reasons why the Cayman Islands remain the leading offshore international financial centre. Taxation is one of them.

The Cayman Islands are a free market tax neutral jurisdiction. The government of the Cayman Islands raises revenue solely via a number of indirect methods and without resorting to any form of direct taxation. Specifically, the Cayman Islands:

- do not levy income, profit or corporation taxes on individuals or businesses
- do not withhold or deduct tax on payments to foreign investors
- do not charge death or estate duties
- do not effect any exchange controls

For the purposes of exemption from taxation, no distinction is drawn between conducting business overseas or within the Cayman Islands.

The most popular legal forms for "international" business (i.e. where there is no intention to conduct significant business within the Cayman Islands) are the exempted company, the exempted limited partnership and the exempted trust. These vehicles can achieve additional certainty by obtaining a certificate from the Governor-in-Council confirming that they will remain exempt from any potential future taxes for periods of 20, 50 and 50 years respectively. Cayman Islands vehicles are tax neutral thus facilitating a broad range of efficient corporate and capital markets transactions.

A Cayman Islands entity may be subject to tax in an overseas jurisdiction where it has activities or a taxable presence. These are matters for onshore tax and legal advisers to consider.

The indirect methods of governmental revenue collection include import duties, company registration fees, regulatory licence fees, stamp duties on real estate and other transactions, hotel occupancy levies, work permit fees and cruise ship levies. Governmental costs are minimized by a number of methods, including mandatory private health insurance and pension arrangements for employers.

International tax relationships and business standards

The Cayman Islands have a long history of constructive engagement with foreign governments and international organisations and seek to uphold the highest business standards. In particular:

- The Cayman Islands have continuously updated their anti-money laundering regime. In relation to the Financial Action Task Force's "40 + 9" recommendations for combating money laundering and terrorist financing, in 2007 the Cayman Islands were placed seventh globally, ahead of several leading onshore jurisdictions.

- The Cayman Islands are on the OECD's "white list" of jurisdictions that substantially implement international tax standards and have entered into bilateral agreements with 25 countries for the provision of tax information (including major economies such as the United States of America, the United Kingdom, Japan, France and Germany). The Tax Information Authority administers those agreements as well as the automatic reporting of savings information under the European Union Savings Directive.

- The Cayman Islands became a full member of IOSCO in 2009.

Stable and flexible

The Cayman Islands are a British Overseas Territory, with a stable democratic system of government and a low crime rate. The legal system is based on the English common law, as amended by domestic statute, with the Privy Council as the highest court of appeal. The legal structures, concepts and approach are instantly recognisable to any English, US or other common law adviser. This backbone of legal similarity and political stability has proved crucial to the growth of the Islands.

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Over the last 20 to 30 years, the Cayman Islands have developed specific legislation to facilitate a wide range of international financial transactions. In addition, the Cayman Islands have a broad and deep pool of accountants, bankers, lawyers and other service providers in order to offer service levels similar to those found in the leading onshore centres.

Market leadership

Due to the absence of taxation and these wider reasons, Cayman Islands companies, partnerships and trusts are routinely used for transactional business by the largest banks, insurance companies, asset managers and corporations.

The scale of business activity within these Cayman Islands structures, and their importance to international capital flows, cannot be understated. The following statistics evidence the prominence of the Cayman Islands as the leading offshore jurisdiction for a wide range of business activity:

- According to the Bank of International Settlements July 2011 Report, the Cayman Islands continue to be the sixth largest banking centre by assets at $1.75 trillion (placing the Islands after only the United Kingdom, Japan, the United States of America, Germany and France and considerably ahead of Luxembourg, Switzerland, the Netherlands, Hong Kong, Ireland and Singapore).

- Over 40 of the top 50 banks globally hold licenses in the Cayman Islands.

- With nearly 10,000 registered investment funds, Cayman Islands fund vehicles are routinely used by institutional and independent asset managers. Cayman vehicles are considered, by a very wide margin, to be the market leader for offshore hedge funds.

- In terms of insurance, the Cayman Islands are one of the most attractive jurisdictions for captive vehicles and continue to be the leading jurisdiction for healthcare captives. As of 30 June 2011, the Cayman Islands had a total of 725 captive licensed vehicles. As of 30 June 2011, total premiums were at their highest ever at US$9.06 billion and with total assets at US$57.4billion.

Cayman Islands companies are increasingly dominating the Hong Kong IPO market as the listed vehicle.

These facts underscore the attractiveness of the zero tax regime of the Cayman Islands combined with the Islands' stable government and resilient legal infrastructure.

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