



Gavin Goffe

The Tax Benefits of Using Offshore Companies

For many years, some of Jamaica's most successful businesses have included offshore companies as part of their corporate structure. The most popular type of offshore company used in connection with Jamaican businesses is the International Business Company ("IBC") formed in St. Lucia, Barbados or the British Virgin Islands.

Being resident overseas, an offshore company would not pay corporation tax in Jamaica (although it may be liable to pay tax on any income earned in Jamaica). If it pays tax in the offshore jurisdiction it is at a significantly lower rate than the 33 $\frac{1}{3}$ % that it would pay on its profits if it were resident in Jamaica. In some jurisdictions, the company is able to elect to pay income tax at the rate of either 1% or 0%.

Land Transactions

One of the primary roles of an offshore company in the overall corporate structure is to hold real property. Persons often realize huge tax savings when they opt to incorporate an offshore company for the sole purpose of holding a parcel of land that they intend to sell soon after purchase. Instead of selling the land, the person will sell the offshore company that owns the land. The tax payable on the sale of shares in an offshore company is significantly less than the tax payable on the sale of land in Jamaica. This is so even in spite of the Government's recent announcement of a reduction in transfer tax and stamp duty on transfers of land. Persons who purchase these offshore companies as a means of purchasing land ought to be aware of the risks that one assumes whenever one purchases shares in a company. They should also seek legal advice specifically in relation to what our laws refer to as "land-owning companies".

Dividends

If the offshore company is in a CARICOM member country, then additional tax benefits may be derived under the CARICOM Double Taxation Treaty. When a local company makes a profit, it has to pay corporation tax on that profit first, and then if it pays a dividend to the shareholder, it must also withhold tax from the dividend. The rate of the withholding tax is 33 $\frac{1}{3}$ % if the shareholder is a company and 25% if the shareholder is an individual. Under the CARICOM Double Taxation Treaty though, if a local company pays a dividend to an offshore company resident in a CARICOM state, then the rate of withholding tax is 0% (provided the dividends are not paid in respect of preference

shares). It is important to note that where an offshore company actually carries on business in Jamaica, the income from the business may be taxed in much the same way that it would be if the company was incorporated in Jamaica.

Setting Up an Offshore Company

Setting up an offshore company is fast, easy, and relatively inexpensive. In fact, many offshore companies are incorporated and kept as 'shelf-companies' and sold to persons who are not able to wait for the few days that it takes to incorporate. The cost of incorporating an offshore company is usually within the range of US\$1000-US\$1500, and the annual fee to maintain the company averages around US\$800 –US\$1000, but this depends to some extent on the level of activity that the company engages in and the services that the Registered Agent is asked to provide.

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