

World's Leading Financial and Trusts Centres

BARBADOS

INTRODUCTION

Barbados has blossomed into a first class international business centre, rivaling many of the major offshore jurisdictions in attracting everyone from the small business man, to the affluent and extremely wealthy magnates. For over twenty five (25) years, Barbados' democratic government has embraced offshore businesses, while consciously re-inventing its legislative apparatus to remain competitive in a difficult global market. It has done this while also recognizing the importance of having anti money-laundering legislation, and enforcement against other forms of criminal activity. It has formed a successful and a continual growing offshore business sector encompassing communities such as banking, insurance, shipping, mutual funds, trusts management businesses and international business companies. Barbados also boasts a stock exchange which had as of February 2009 capitalization of BBD\$13 billion, trading with listings from twenty six (26) local companies and numerous international companies including seven (7) banks.

The 2007 economic review published by the Central Bank of Barbados mentioned that there were some four hundred and seventy (470) new business licenses issued during the year, of which three hundred and thirty-four (334) were granted to international business companies, and one hundred and twenty-six (126) were societies with restricted liabilities. Further, there were six (6) exempt insurance companies, one (1) exempt insurance management company and approved for operation were also three (3) new offshore banks. These figures clearly show the importance this sector now plays in the economy of the country, which now has in excess of some four thousand (4,000) registered international business companies. Some estimates suggest that up to 40% of all corporation tax that is collected is generated by this sector, which has then been reinvested to help further development of the sector and other social upgrades. The success of this reinvestment is also due to the long standing reputation of the low corruption levels in government, which ultimately aids to the beneficial progression of the country.

The physical location of Barbados has been an attribute for the trading sector of Barbados, which has allowed it to engage in increased commercial activity over the years both regionally and internationally. What the government has also done is to introduce wide ranging investment incentives, either directly or through the Barbados Investment and Development Corporation, for the benefit of the manufacturing industry, which was solidified by the *Fiscal Incentives Act 1974 Cap. 71A of the Laws of Barbados* (the "FIA"). The FIA allows for the provision of tax holidays of up to fifteen (15) years, assistance with the construction of factories and even the duty free importation of materials just to name a few.

The International Financial Services Act 2003 Cap. 325 of the Laws of Barbados became the successor governing the banking sector after the *Off-shore Banking Act Cap. 325 of the Laws of Barbados* was repealed, and as of 2008, there were some fifty seven (57) licensed offshore banks in Barbados. In an effort to maintain a sector free from criminal activity, the Central Bank of Barbados has very recently strengthened its vetting procedures over the application of interested banks, in an effort to curb international money laundering and other criminal concerns. The license fees for these types of financial institutions are also very competitively low, whereby the main branch of a local bank is required to pay BBD\$250,000 per bank, and its other branches are required to pay only BBD\$20,000 each. To have ATM's a contribution of BBD\$1,000 is required per machine and international banks request some BBD\$100,000 per bank. Barbados also offers competitive tax concessions to offshore banks, which are also exempt from any exchange control regulations.

For over thirty (30) years, Barbados has been involved in considerable activity in trust management. The *International Trusts Act 1995 Cap. 245 of the Laws of Barbados* provided the country with an opportunity to be marketed as a strong, modern and comprehensive trust establishment destination, which is highly favored and attractive for the purposes of asset protection. It has created a wider market-place not just for the establishment of trusts for tax purposes, but equally important the efficient management of vast sums of wealth. The result is a superior collection of professional advisers in relation to trust matters in Barbados, who can be approached by individuals to establish a trust that needs no registration, in the interest of privacy. Furthermore, very tax efficient structures are easily formed using a combination of offshore trusts and international business companies for international securities management.

Barbados has developed an exceptional education system, which produces a highly capable English speaking work force. With a campus of the University of the West Indies and many other tertiary and training institutions scattered across the island, it solidifies the continual upgrading of their capacity to further develop skills, both academic and vocational. The highly educated population of Barbados has attributed to the very good quality of life in the country, causing investors to migrate as it is an ideal location to conduct their business operations.

Notably, Barbados has become a target for investment as its reputation of being a premier wealth management centre has grown. Transparent policies coupled with an effective legal system guarantees Barbados to receive high rankings for years to come, as investors continue to comb a highly competitive global market place for tax advantages and investment protection. As a reputable low tax jurisdiction for international business Barbados has developed a high quality infrastructure along with a human workforce capable of facilitating and maintaining this sector for years to come.

GENERAL OVERVIEW

Barbados is nestled just east of the Caribbean Sea, at coordinates 13° 10' North and 59° 32' West, in the Eastern Caribbean time-zone (UTC-4), thus making it a part of the

Lesser Antilles. A short distance away to the West lies its neighboring Caribbean islands of St. Vincent and the Grenadines and St. Lucia, and to the south the twin island Republic of Trinidad and Tobago. It has a total landmass of around 430 square kilometers (166 square miles), and an estimated population of 281,968 as of 2008. The Central Bank of Barbados issues the island's native currency, which is pegged to the U.S dollar at a rate of US\$1.00 to BBD\$1.98. Persons wishing to contact a local telephone number from abroad are required to use the international dialing code +1 (246).

The capital of Barbados is Bridgetown, which is situated in the parish of St. Michael, and is the island's main city. Its single airport is located to the south of the island in the parish of Christ Church, known as the Sir Grantley Adams International Airport (G.A.I.A), internationally recognized as 'BGI'. It recently underwent a US\$100 million upgrade, and is currently a portal for direct service destinations to Canada, North, Central and South America, Europe and the majority of the Caribbean region. With these expansive upgrades, the main passenger terminals are now more than equipped to entertain the over two (2) million passengers each year.

Barbados gained independence on November 30, 1966, after being a colony of the British Empire for over three hundred (300) years. This colonial background has therefore imposed the English language on its inhabitants, which comprises of 90% Afro-Barbadians, 6% Asian and multi-racial and 4% Europeans. It also boasts one of the highest literacy percentages in the world at 99.7%. The framers of the constitution implemented a constitutional monarchy, which is aided by a democratic parliament comprised of thirty (30) seats, imitating the Westminster system of government located in Britain. The Head of State continues to be Queen Elizabeth II, represented locally by a Governor General, who then has responsibility for appointing a Head of Government, the Prime Minister, viewed as the one holding effective control over the majority of the members in Parliament.

Once an individual has spent on aggregate more than one hundred and eighty two (182) days in Barbados in any one (1) calendar year, they may be deemed a resident of the country. This does not prejudice the classification of a person's domicile in Barbados however, as that is more a question of intent and not reliance upon long-term residence.

Introduction

In depicting the argument that Barbados has progressively become the leading International Business Centre in its hemisphere, primary focus will be on the growth of its trust laws. This however will not overshadow the extreme importance of the contributions to the economy by international business companies, and the numerous tax advantages offered to lure them to the island's shores. These will be discussed amongst other things while also emphasizing that Barbados has the capacity and infrastructure to govern and regulate through effectiveness, consistency and reliability reputable businesses under the highest international standards.

Government

The system of Government in Barbados is based on one core main value, democracy. This core element is realized through the medium of adult human suffrage via the first-past-the-post system. Those who are eligible to partake in this process elect thirty (30) representatives from amongst the two (2) existent political parties, namely the Democratic Labor Party and the Barbados Labor Party, generally for a term of five (5) years to legislate in the Lower House of Assembly. This process has been used since 1961 when Barbados achieved full self-governance. Prior to this however, governance was possible through either colonial dictation solely or a mixture of colonial administration and a partially-elected assembly. Presently, the leader of the victorious Party is then appointed as the Prime Minister by the Head of State's representative, the Governor General.

In an effort to mimic the British Westminster system, the Barbados governmental structure is also bicameral, and therefore has an Upper House called the Senate. Composed of twenty-one (21) un-elected members selected by the Prime Minister, leader of the Opposition and the Governor General, the Senate has the power to introduce legislation, and in some circumstances amend or oppose legislation drafted in the Lower House.

Effective government is also realized through the use of the separation of powers doctrine, where the executive, legislative and judicial branches of government all have unique powers and roles. This also allows for necessary checks and balances, thus ensuring that one branch of government do not encroach on the affairs of another. Furthermore, corruption within the island's government is impressively low, and was ranked by the non-governmental organization of Transparency International twenty second (22nd) of one hundred and twenty nine (129) countries in their 2008 corruption perceptions index. The country also received an amazing third (3rd) place award in this category in the region of the Americas.

Political and Economic Stability

Barbados boasts one of the oldest democracies in the world, with representative government having been established since 1639. Since independence, the two (2) political parties, the Barbados Labor Party and the Democratic Labor Party, have both had their individual turns of governance, without ever having experienced the destabilizing occurrence of a '*coup d'état*'.

Surveillance of individual rights and freedoms is also of fundamental importance, undertaken by the constitution, guaranteeing the freedoms of speech, association and movement amongst many others. These social modern advances have enabled the country to sign on to various multilateral treaties and accede to international organizations including the United Nations (UN) and the Organization of American States (OAS) and

regional organizations such as the Caribbean Community (CARICOM) and the Association of Caribbean States (ACS).

Political independence from foreign influence also seems to be standing firm, with the country's autonomy remaining strong within its elected members. However, the political independence, particularly of a developing nation can never really be achieved, if held at economic hostage by an outside entity. Barbados has therefore implemented the infrastructure to ensure its economic stability and survival on the global economic market through the development of its agricultural, tourism and financial services sectors. Government has committed over 37% of the country's land mass to be classified as arable land; but, given the now relatively low trading power of sugar on the international market and also a subsequent decline in production, other products have been grown alternatively, which continue to do well.

In 1961, the construction of the Deep Water Harbor has made it possible to accommodate over half a million visitors each year from cruise ship arrivals. This coupled with the US\$100 million upgrade to the lone airport, Sir Grantley Adams International, Barbados is well equipped to welcome over some 1.2 million visitors on average per year.

Finally, despite figures being hard to track, there are hundreds of insurance and investment companies in the island, along with some forty seven (47) offshore banks, which not only facilitate employment, but enormous investment opportunities for the country. Successes in these markets and other service sectors have helped the Barbados economy to realize a GDP growth of 4.0%, and an unemployment rate of 7.6% in 2006.

Business environment

Companies and investors looking for an edge in an extremely rigid and intense global market discern the importance of researching the opportunities available in prospective locations. Consequently, being constantly under the microscope, countries are required to actively identify and market their unique value propositions, and in some cases, market themselves to investors who may not be at the time interested in them. The business environment in Barbados has such alluring potential that direct foreign investment has continued to increasingly trickle into the country over the last few decades. The island has done so well that it is heavily favored amongst investors from the United States and Canada as having a respectable and stable social, political and economic environment to not only invest, but also for habitation. This is extremely evident with the over \$36 billion of direct foreign investment coming from Canada in 2007.

The primary reason for the development of offshore activities in Barbados came after the realization of the decline in some of its more historically productive services such as agriculture, and in anticipation of further decline of these services as global demand fell. The government understood that diversification was necessary and chartered a course that transformed the business climate and the economy. To this end, they released 'The Strategic Plan for the International Business Sector 2007 – 2012', a document dedicated

to the expansion of the industry in Barbados, over the remainder of this one and into the next decade. This goal was to be achieved through enhancing and expanding sustainable economic growth, and in a show of pro-activeness and preparedness during the storm of a global recession, a 'Short and Medium Term Action Plan for the International Business Sector 2009-2011'. This was released to capture more recession-proof businesses, and to capitalize on the expected post recession resurgence.

Corporate Barbados is under the direction of the Companies Act Cap. 308 of the Laws of Barbados, which came into force on 1 January 1985, and was drafted with close reference to the Canadian Business Corporation Act, with a few amendments since its inception. To incorporate a local company, it is mandatory to have filed with the Registrar of Corporate Affairs and Intellectual Property Office (the "Registrar") Articles of Incorporation, Notices of Directors, and the location of the registered office, after which the Registrar will then issue a Certificate of Incorporation. With incorporation complete, a company then assumes all of the rights, powers and privileges of a normal citizen, provided that inherent in its articles certain activities are not prohibited. What is also worthy of mention is the rule that the common law concepts of *ultra vires* and constructive notice are not applicable in relation to a company due to the fact that it has no objects or a purpose clause. An incorporated company in Barbados is required only to have at least one (1) director (a public company, at least three (3)), and that person need not necessarily be a Barbadian citizen. They are to be appointed by the shareholders and their meetings can be held inside or outside of Barbados; however, the minutes of all director meetings must be kept in Barbados. Their powers mainly derive from the Articles of Incorporation, and also the *Companies Act, CAP. 308 of the Laws of Barbados*.

After incorporation, a local company must hold its first annual general meeting of shareholders no later than eighteen (18) months after the date of incorporation, after which, they should be held no later than fifteen (15) months from the date of the previous meeting. These shareholder meetings can be held inside or outside of Barbados, and individual shareholders can be represented by proxy. There need not be more than one (1) shareholder, and the shares have no nominal or par value, nor can the company have any stated authorised capital. What is required though is a specified description of the class of shares and how many a company can issue, in addition to a shareholders' register held in Barbados for inspection by other shareholders.

Adequate accounting records must be kept, and the directors are required to submit to the shareholders audited (or unaudited where applicable) financial statements, by an independent auditor which is a member of the Institute of Chartered Accountants of Barbados. The person performing the audit must be appointed by the shareholders at the first and then at each subsequent annual general meeting. These audited financial statements are required to be filed annually with the Registrar of Companies, where public inspection can be carried out, when involving private companies whose gross revenues or gross assets are over BBD\$1 million. Those companies that fall under BDS\$1 million are exempt from such auditing and filing requirements.

Barbados has its own stock exchange that has been in existence for twenty-one (21) years, where companies can trade freely on the market. As of February 2009 some twenty-six (26) local companies, seven (7) banks and numerous international companies were on the trading list with a capitalization of BBD\$13 billion.

Foreign companies that desire to become incorporated as a domestic company in Barbados can also do so if they wish, once its management and control powers are effectively handed over to Barbados and by registering with the Registrar. If however, a domestic company wishes to migrate to another jurisdiction, permission will be required from the Exchange Control office to have its residence transferred.

Barbados has assembled an impressive infrastructure to facilitate International Business Companies (“**IBCs**”), which helps convince investors to decide to invest in the island. In 1965, the International Business Companies Act Cap. 77 of the Laws of Barbados was passed, and then amended in 2002, which allowed for permitted companies to establish their headquarters in Barbados, and engage only in regional and international trade. Also, to acquire this status of an IBC, the type of trade that is involved must be related to international manufacturing, or international trade and commerce. Once this has been achieved therefore, entitlement to tax reductions, exemptions and numerous other benefits relating to the area of activity involved are granted.

Barbados has had its own ‘currency’ since 1882, with the internationally recognized currency code ‘BBD’, which is pegged to the US\$, at a rate of US\$1.00 to BBD\$1.98. Foreign exchange control is vested in the Exchange Control Authority of the Central Bank of Barbados, where when it enters the country, it has to be registered. In fact the inflow of foreign exchange is so heavily encouraged, that permits are readily granted for persons wishing to become involved in areas such as manufacturing and technological services.

For those residents whose business earns foreign exchange, they may own a foreign currency account with a limit of up to BBD\$20,000 (or foreign currency equivalent), without the need for Central Bank approval, provided that the accounts are funded by foreign exchange of at least BDS\$50,000 annually. In the circumstance where there are limits in excess of BBD\$20,000, permission must be expressly granted from the Central Bank. With regards to non-residents, they too can hold foreign currency accounts and external accounts in the island, once approval has been granted by their own personal commercial bank, while subsidiaries and branches of foreign companies may only hold foreign currency accounts through Central Bank authorization. In the interest of ensuring regular free trade continues to flow in and out of the country, there is generally no hassle in gaining approval for payment of imports with foreign currency, once all documentation is in sound order. In relation, however, to the foreign currency proceeds of the sale of exports, local currency conversion is necessary, particularly where the exporter does not have the permission to hold a foreign currency account.

“**Offshore companies**” (IBCs, international financial services banks, exempt insurance companies, foreign sales corporations, international societies with restricted liability) are

completely exempt from any exchange controls. This gives them the ability to conduct their trade and services as freely as they would like, with no governmental interference over the movement of any foreign exchange in their assets.

Barbados can be described as a well developed reputable low tax jurisdiction for the purposes of international business. For such a classification to be bestowed upon any destination, they must command a highly developed system of disclosure laws, to uphold and maintain the sacredness of the secrecy of information. Despite there not being any expressly identifiable legislation governing secrecy, both the civil and criminal law enforce weighty sanctions against convicted violators of confidentiality breaches. Also, under common law principles banks owe their customers a duty of confidentiality, and it's employees are only required to furnish confidential information if it is lawfully required by a competent Court of law within the jurisdiction of Barbados. The preservation of secrecy for banking establishments operating within Barbados is enshrined in Section 48 of the *International Financial Services Act Cap. 325 of the Laws of Barbados*, and subject to this, disclosure of information may only be possible with the express consent of the client. Without prejudice to these requirements for confidentiality, the *Money Laundering and Financing of Terrorism (Prevention and Control) Act Cap. 129 of the Laws of Barbados* provides for the direct requirement of reporting transactions that are suspected of being involved in money laundering.

In terms of trust settlement, there are no legislative provisions governing trustee confidentiality in Barbados, unless it is provided for by the trust instrument. Also there is no requirement to register a local Barbados trust or to file a copy of the trust deed with any governmental body, and secrecy and confidentiality are expected under common law and equitable principles. Thus any suspicious acts which may fall under the provisions of the *Money Laundering and Financing of Terrorism (Prevention and Control) Act Cap. 129 of the Laws of Barbados* are required to be reported to the relevant authority.

Legal System

The Barbados legal system was founded from English common law, and is now also supplemented by modern legislation. The Court system operates under a hierarchical structure with the lowest court sitting as the Magistrates' Court that has both civil and criminal jurisdictions, followed by the Supreme Court of Judicature which sits as the High Court and finally the Court of Appeal. Harnessing it's powers from the constitution with unlimited jurisdiction, the Court of Appeal is comprised of a Chief Justice and three (3) puisne judges appointed by the Governor General on recommendation by the Prime Minister after consultation with the leader of the opposition. In 2003, Caribbean leaders met in the island of Jamaica and signed and then ratified a treaty which established the Caribbean Court of Justice (CCJ), as the country's final appellate Court. This replaced the Judicial Committee of Her Majesty's Privy Council in the United Kingdom. The legal system in Barbados boasts an administration of justice that is free from political influence.

Barbados first began to dabble in legislation concerning international business companies in 1965, when enabling legislation permitted companies that do not trade locally to establish infrastructure on the island. The original pieces of legislation underwent periodic amendments, until the arrival of the current statute the *International Business Companies Act 1991 Cap. of the Laws of Barbados*. Given too the fact that Barbados also caters to International Financial Services Banks, the *International Financial Services Act Cap. 325 of the Laws of Barbados* is the legislation that governs such services, as it repealed the originally used *Offshore Banking Act Cap. 325 of the Laws of Barbados*.

Barbados has engaged in the signature of double taxation treaties with the following countries in alphabetical order: Canada, CARICOM, Cuba, Finland, Norway, Sweden, Switzerland, the United Kingdom, The United States of America and Venezuela (signed but not yet ratified). Barbados has also engaged in legislation with the United States over Foreign Sales Corporations through the *Barbados Foreign Sales Corporation Act 1984 Cap. 59C of the Laws of Barbados*. However, after the pressure placed on America by other countries and the ruling by the World Trade Organisation (WTO), the future of such corporations is unknown.

Taxation

The competent authority in Barbados which handles tax matters, the Office of Inland Revenue, requires residents domiciled in Barbados to be taxed on worldwide income, irrespective of whether that income has been remitted to Barbados. For those who are resident but not domiciled in the country, taxes are imposed on all Barbados sourced income, including from local employment and on foreign unearned income remitted to Barbados. The marginal rates for individual income tax are 20% on taxable income up to BBD\$24,200, and 35% on taxable income over BBD\$24,200, with a personal allowance of BBD\$25,000 (BBD\$40,000 for individuals over the age of 60 and a recipient of a pension). For non-resident individuals, they are subject to a tax on income derived from sources within Barbados, but withheld on a pay-as-you earn basis.

There are numerous documents which require the payment of a stamp duty, at the rate of 1% ad valorem; however, all Offshore companies are excepted. Stamp duty is also additionally paid on bills of entry on imported goods at a rate of 10% for regional goods and 15% for all non-regional goods.

There are fourm (4) types of offshore companies which when certain requirements are met, are eligible to receive special tax incentives in Barbados, namely; i) IBCs, ii) Exempt Insurance Companies, iii) International Financial Service Banks and, iv) Foreign Sales Corporations. These entities receive special incentives which are provided through a number of different ways: i) *The Fiscal Incentives Act 1974 Cap. 71A of the Laws of Barbados (the "FIA")*, which offers new manufacturing operators an exemption from coporation tax and customs duty for periods of six (6) to ten (10) years. The FIA also allows for exemptions from withholding tax on dividends, and the carrying forward of

losses; ii) The Caribbean Community and Common Market (CARICOM) provides an avenue for duty free market for goods produced within the CARICOM community; iii) The Lomé Convention provides for certain rights of privileged access to the EEC; iv) Certain products produced within Barbados benefit from preferential access to the U.S market through the development of the Caribbean Basin; and v) Allowances of up to 40% of investments on the cost of new equipment, and subsidies for agriculture and building materials.

Unlike imported products into Barbados from other CARICOM member states which enjoy exemptions from import duties such as a customs duty, consumption tax and a stamp tax, most other imported products face these fiscal charges. In 1999, Barbados reduced the Common External Tariff (CET) to 20% and in 2000, a 35% surtax charge was completely removed. Certain items carry higher fiscal charges than others, such as fruit and vegetables which carry a 40% import charge, as compared to jewelry with a 60% import duty charge. What was beneficial however was the decision to place a value-added tax of 15% on mostly imported products, which replaced some eleven (11) different import taxes. Barbados does not have in its tax system any fiscal export controls.

Corporations

Corporations formed in Barbados are legal entities established and authorized to do business under the *Companies Act Cap. 308 of the Laws of Barbados*, thus making them separate and apart from their shareholders and creating a new legal person. To establish a corporation in Barbados, the name of the corporation is to be reserved first by paying a fee of BDS\$30.00 and filing the prescribed form. Upon receipt of approval of the name an application fee of BBD\$750.00 is to be submitted along with the Articles of Incorporation and other prescribed forms to the Corporate Affairs and Intellectual Property Office of Barbados. A Certificate of Incorporation will then be issued by the Registrar upon incorporation.

Some corporations such as IBCs are required to pay licensing fees, separate and apart from the incorporation process.

Corporations which are resident in Barbados are required to pay taxes on all income except dividends sourced in the island, at a rate of 25%. If a corporation falls under the classification of a small business, the tax rate is lower at 15%. Some corporations are resident life insurance companies which face a tax rate of 5% on gross income and a further 3% on premium income, while those that are non-resident life insurance companies are taxed 3% to 6% on their premium income. All non-resident corporations are subject to pay a 15% tax fee on any Barbadian sourced dividends, interest, royalties and management fee income.

Barbados has also qualified as a jurisdiction recognized to have the capacity to incorporate Foreign Sales Corporations (FSCs) by the United States of America. To be

labeled a FSC, a company must be incorporated in Barbados under the *Companies Act Cap. 308 of the Laws of Barbados*, along with meeting the requirements necessary under various strict United States regulations. The *Barbados Foreign Sales Corporation Act 1984 Cap. 59C of the Laws of Barbados* dictates that FSCs are exempt in the country from all income, withholding or transfer taxes, as well as any customs duties and exchange controls. They are required to pay an annual license fee of US\$1,000 for a regular FSC or US\$500 for a small FSC, which is classified as an FSC which has an annual turnover less than US\$5 million.

Barbadian FSCs are not permitted to transact any business with any of the other CARICOM countries. At present however, there has been a temporary suspension of the issuances of new FSC licenses; however, all existing FSCs can still renew their annual license and continue to conduct regular business.

One other form that can be described as a corporate vehicle in Barbados are International Societies with Restricted Liabilities, which fall under the predominance of the *Societies with Restricted Liabilities Act 1995 Cap. 318B of the Laws of Barbados*. These entities which have corporate characteristics but with restricted liability can be created by one (1) or more persons filing prescribed articles of organization to the Registrar of Corporate Affairs and Intellectual Property, which include identifying the name of the SRL which must carry the words ‘Society with Restricted Liability’ or the abbreviation ‘SRL’, its registered office and agent in Barbados and the duration of the SRL which may not exceed fifty (50) years. Once a certificate of organization has been issued, a license from the Director of International Business is required, which must be renewed annually.

The *Societies With Restricted Liabilities Act 1995 Cap. 318B of the Laws of Barbados* also allows for International Societies with Restricted Liabilities (ISRL) which are required to pass through the same organizational process as a regular SRL, and then must also obtain a license to operate from the Director of International Business which must be renewed annually. They are not allowed to hold land in Barbados, take deposits in contravention of the *Financial Institutions Act 1997 Cap. 324A of the Laws of Barbados* or transact any business with persons resident in Barbados. They may however conduct business with another ISRL, an international financial services bank, an exempt insurance company or an international business company.

An SRL at its office must maintain the articles and by-laws and all amendments thereto, minutes of meetings and resolutions of members and audited financial statements if gross revenue exceeds BBD\$1 million. They are subject to tax on annual profits and gains that is payable at the rates of 1.5%, 2% and 2.5% on each US\$5 million increment of profits and at 1% when over US\$15 million. They can however benefit from a tax credit which may be given for taxes paid elsewhere, once such credit does not reduce the Barbados tax to less than 1% of profits in an income year. ISRLs are exempt from exchange controls and are taxed on annual gains. All machinery or equipment associated with the use by a SRL in Barbados may be exempted from some importation duties or taxes.

Banks and Trust Companies

The successful banking system within Barbados involves an effective network of various large and publicly traded banks and their subsidiaries, involved in a comprehensive range of services, including treasury functions and trust investment management. This system provides an invaluable contribution to the social development of the country by providing jobs of which over 90% of employment is local, and is instrumental in the supply of government revenues which unarguably assists in the local economy.

The Central Bank of Barbados is the primordial financial institution on the island. It has the responsibility of regulating foreign currency exchange controls and it also oversees the activities of commercial banks and many other financial institutions. Its main role however is to conceptualize monetary and fiscal policies geared towards assisting the country's financial development programs.

The commercial banking sector has developed into a modern financial services provider, which guarantees a wide range of services catering to both domestic and international clients. For a company that wishes to carry out banking services in Barbados or a foreign bank wishing to do the same, the *Financial Institutions Act Cap. 324A of the Laws of Barbados* dictates that a licence must be granted by the Minister of Finance. What adequately supplements services such as chequing and savings accounts, credit cards, mortgage financing and other loans, foreign currency transactions and automated teller machines (ATM's) that are offered by local commercial banks, are the efficient trust companies which facilitate investment and executor and/or trustee services.

The formation of trust companies in Barbados depends upon the varying categorization of trusts namely; international, offshore or domestic trusts, as a domestic company can not undertake the responsibilities of managing an offshore trust and vice versa. The *Trustee Act Cap. 250 of the Laws of Barbados* require that domestic trust companies must have paid up capital of BBD\$50,000, while the *International Financial Services Act Cap. 325 of the Laws of Barbados* requires a paid up capital of BBD\$1,000,000.

Barbados also caters to International Financial Services Banks, regulated through the provisions of the *International Financial Services Act Cap. 325 of the Laws of Barbados*, which repealed the *Offshore Banking Act Cap. 325 of the Laws of Barbados*. To conduct offshore banking services, a license must be obtained from the Minister of Finance once certain conditions are met. These include: i) being incorporated in Barbados, or be a qualified foreign bank, ii) maintaining a minimum issued capital of up to BBD\$ 1 million for non-third party deposit banks, and BBD\$4 million for third party deposit taking banks, iii) an annual payment of a licensing fee of BBD\$25,000 and, iv) the responsibility of maintaining a reserve fund which is equal to issued capital and transfer annually into the reserve fund at least 25% of profits in the event that the fund falls below the level of issued capital.

Below is a concise table outlining the rates at which international financial services banks

are subjected to tax on their profits:

	%
Up to BDS\$10 million	2.5
from BDS\$10–20 million	2.0
from BDS\$20–30 million	1.5
over BDS\$30 million	1.0

There are some benefits that are available to international financial services banks however, and they are that any dividends and interest paid to non-residents are exempt from withholding tax, and they are also exempt from the provisions outlined within the *Exchange Control Act 1967 Cap. 71 of the Laws of Barbados*.

Service providers such as the Bank of Nova Scotia, the Bank of Butterfield and First Caribbean International Bank are amongst the list of institutions where an international customer in Barbados can be serviced by foreign exchange bank accounts. Such international banking services can also facilitate investment management, letters of credit for foreign exchange transaction and banking and fiduciary services.

Insurance

Barbados has continuously been a destination for domicile of international insurance companies. Soon after the passing of the *Exempt Insurance Act 1983 Cap. 308A of the Laws of Barbados (the “Exempt Insurance Act”)*, within three (3) years Barbados had established itself as the fastest developing captive insurance domicile in the world. Such insurance companies do not operate in the traditional sense, and are established to insure financial risks taken by their owners. The *Exempt Insurance Act* requires that for such exempt insurance companies and insurance management companies to qualify as such, they must have been incorporated in Barbados and provide an annual license fee of BBD\$5,000, while commanding a minimum capital of US\$125,000. It must also submit to a tax on its profits at the rate of 0% for the first fifteen (15) years and 2% on the first US\$250,000 of profits thereafter. Importantly also, they are exempt from exchange control restrictions, income, capital gains or any other direct taxes, and even withholding taxes on dividends or interest to shareholders.

Once a captive insurance company has been established domiciled in Barbados with a license, it must maintain an office where it’s books and records are housed, file audited financial statements along with a certification of the value of it’s assets and maintain solvency ratios whereby the value of liabilities is never to surpass asset value; i) by BBD\$250,000, where the premium income does not exceed BBD\$1.5 million, ii) by one-fifth (1/5th) of premium income where the income does not exceed BBD\$10 million or,

iii) by an aggregate of BBD\$2 million plus one-tenth (1/10th) of the amount by which the premium income exceeds BBD\$10 million.

After the introduction of the captive insurance sector in Barbados, its subsequent rapid expansion could be attributed to the signing of the Barbados/US Tax Treaty. This treaty allowed for an exemption of the 1% - 4% Federal Excise Tax (FET), which normally applied to re-insurance or insurance paid to a non-United States corporation, under the condition that this corporation must be domiciled in Barbados. By the time this bi-lateral treaty was amended in 1991, Barbados had impressively solidified its reputation as a formidable destination for the domicile of captive insurance corporations, particularly through the success of the Barbados/Canada Double Taxation Treaty. Canadians benefited by establishing domicile Canadian companies in Barbados, which can benefit from a tax deduction on its insurance premium, while still accruing tax free income from the insurance business.

Mutual Funds

As of December 31, 2008, the total number of licensed mutual funds in Barbados totaled eleven (11). Governed by the *Mutual Funds Act Cap. 320B of the Laws of Barbados* (the “**Mutual Funds Act**”), and its accompanying subsidiary legislation namely the *Mutual Fund Regulations 2002* and the *Mutual Fund (Fees) Regulations 2000*, these legislative documents regulate the operations of mutual funds, their managers and administrators, who are conducting business in or from within Barbados. The regulating authority with this portfolio is the Barbados Securities Commission.

The *Mutual Funds Act* dictates that a mutual fund may take the form of a company, a partnership, a society with restricted liability (SRL), a unit trust, or some other similar entity formed or organized under the laws of any other territory or jurisdiction. Essentially how they operate is by issuing equity interests, with the objective of merging together investor funds in an effort to spread investor risk, while allowing the investor to receive profits from the investment. There are two (2) different categories of mutual funds under the *Mutual Funds Act* that allows for such activities, namely authorised and exempt mutual funds. An authorised mutual fund is defined as a fund where the minimum equity is BBD\$100 or its equivalent, or where the equity interests are listed by the Barbados Stock Exchange (the “**Exchange**”). They are also required to be licensed by the Exchange and must file with them an offering document which complies with the provisions laid out in the *Mutual Funds Act*. An exempt mutual fund however is defined as a fund with not more than fifteen (15) investors and where the majority of them have the power to remove or appoint an operator of the fund. This category of mutual fund must also be registered with the Exchange.

The *Mutual Fund Act* applies to all mutual funds conducting business in or from within Barbados, regardless of the laws of the territory under which the fund itself is organized. The tax status of these funds depends upon the laws under which it was formed, whether in the form of a company, partnership or unit trust. However, mutual funds are most generally not taxable in Barbados, save in lieu of income deriving from or remitted in

Barbados. If the fund happens to be public, an auditor must be appointed and approved by the Exchange to undertake an annual audit of the fund, which is scheduled to be submitted four months after the end of the corresponding financial year of the fund. The *Mutual Funds Act* also commands that any person who provides a mutual fund with management services, investment advice or administrative services in or from within Barbados is required to be licensed under its provisions.

Finally, in the regulations governing mutual funds in Barbados, there are no rules regarding the capitalization of mutual funds.

TRUST LAW

Development of Trust Law

The reception of the law of trusts in Barbados was historically garnered from its development in English Law, primarily through equitable and common law rules, and as prescribed by the English *Trustee Act 1925* and the Northern Ireland *Trustee Act 1958*. As a former colony of Britain until 1966, the early settlers to Barbados simply took the practice of trust law with them, and saw no need to develop statutory provisions which expressly incorporated equitable and common law principles into the local legal system. After independence however, focus shifted towards the implementation of legislation that would support these deeply rooted un-codified norms, namely the *Trustee Act 1985 Cap. 250 of the Laws of Barbados*, *International Trusts Act 1995 Cap. 245 of the Laws of Barbados* and the *International Financial Services Act Cap. 325 of the Laws of Barbados*.

These relatively new pieces of legislation, consolidated the previous common law and equitable trust rules and became particularly important with the maturation of the financial services sector in Barbados. To attract foreign interests to the island, an avenue for provocative, irrefutable and most importantly protected trusts arrangements had to be possible. As such, the administration of a trust and its construction were seen to be of tantamount importance when the trust legislations were drafted. Furthermore, there was also a committal to international common trust practices through becoming a signatory to the *Hague Convention on the Law Applicable to Trusts and on their Recognition, 1 July 1985*.

Today, Barbados has become a source for the establishment of trusts, given its flexible framework, and stringent confidentiality and disclosure rules legally obligated within the jurisdiction. The completion of an attractive modern trusts system, boasting provisions of financial incentives, including the absence of capital gains tax or estate duty, has propelled the country into one of the leading destinations for the creation of trusts in the world. With this attraction to the country, many local tax advisers are readily available to assist wealth management through the use of trusts, which allows for maximum tax planning.

Legislation

Trust instruments are regulated by three (3) main pieces of legislation in Barbados: the *Trustee Act 1985 Cap. 250 of the Laws of Barbados* (the “**Trustee Act**”), the *International Trusts Act 1995 Cap. 245 of the Laws of Barbados* (“International Trusts Act”) and the *International Financial Services Act Cap. 325 of the Laws of Barbados* (the “**International Financial Services Act**”). Each with its own individual portfolio, these Acts of Parliament provide for the regulation of trusts, and they are facilitators of creative tax planning for interested persons who possess substantial amounts of wealth.

The Trustee Act was developed with a mandate to specify the rules and features surrounding a domestic trust, defined simply as one which does not specify that it is an international trust. Various powers including investment capabilities are granted to trustees under the Trustee Act, which also outlines the powers of the Court (High Court), and an avenue for appeal to the Caribbean Court of Justice if necessary. The Trustee Act, however, does not provide extensive tax exemptions as witnessed in the other trust legislative documents.

The International Trusts Act allows for confidentiality from public viewing after the registration of an international trust has been made at the Registry, and eliminates the requirement to pay a stamp duty. It allows for a maximum perpetuity of one hundred (100) years and has outlined that trustees can even be non-residents, provided that at least one (i) is resident in Barbados. In relation to a resident corporation acting as a trustee however, it must be licensed under the International Financial Services Act. There is the requirement, however, that immovable property must be owned in Barbados and outside of certain few exceptions, beneficiaries must not be residents of Barbados. What makes this legislation particularly competitive in the global market place is that it allows for the creation of ‘*purpose trusts*’, whether charitable or not. This means that there need not be an easily ascertainable beneficiary or ‘owner’ of the trust, to enforce it in the event that the trustees could be deemed to be acting fraudulently. This form of trust tends to be widely and effectively used in diverse business transactions.

Finally, an offshore trust can be licensed under provisions of the *International Financial Services Act*, where both the settlor and beneficiaries must not be resident in Barbados, and all assets outlined in the trust deed must consist solely of foreign currency or securities. Trusts formed under *International Financial Services Act* are not subject to any Barbadian taxes, duties or exchange control charges, and they also allow for a perpetuity period of up to eighty (80) years.

Types of Trusts and their Uses

There are three (3) different types of legislation which govern each of the three (3) generally used types of trusts in Barbados, namely the *Trustee Act*, responsible for

domestic trusts, the *International Trust Act* which oversees international trusts, and the *International Financial Services Act* which facilitates offshore trusts.

A domestic trust in Barbados is one which does not expressly state in its instrument to be an international or offshore trust, and where a majority of the trustees must be Barbadian residents or trust companies licensed under the *Financial Institutions Act Cap. 324A of the Laws of Barbados*. While there is no required registration or filing obligations, there is an eighty (80) year perpetuity period and the trust is also subject to taxes on its worldwide income and its expenses are subject to *Value Added Tax (VAT)*. Domestic trusts can be used very advantageously thanks to the benefits emanating from the various bilateral double taxation treaties Barbados has signed alongside countries such as Canada, the United States, China and the United Kingdom. This means that the tax payable in one of these other jurisdictions can either be 0% or substantially low. They also allow for exemption from exchange controls if the trust has foreign assets, non-resident beneficiaries and primarily conducts business with foreign currency.

For an international trust, at least one (1) of the trustees must be resident in Barbados, but the settlor and generally the beneficiary must be resident outside of the island. The trust instrument must expressly state that it is an international trust, and the trust fund must not include any immovable property located in Barbados. Any income from an international trust that is derived within Barbados is taxed or remitted to Barbados, but they are exempt from exchange controls and Barbados withholding tax. The principal benefits of the international trust however, include the confidentiality of information used in registering the trust which does not become publicly available, a perpetuity period of up to one hundred (100) years, and most importantly, the capability to create non-charitable purpose trusts. Traditionally, purpose trusts were dictated by trust law to be for charitable purposes, however, the International Trust Act allows the settlor to establish a purpose trust that need not be for charitable purposes and may not have any named or ascertainable beneficiaries. The purpose trust still must be established for a specific and reasonable reason, capable of fulfillment, with the restriction that it must not be for an illegal or immoral purpose. Since their creation, these purpose trusts have been extensively used for the holding of shares in companies, debt financing as well as countless other social and philanthropic and political purposes, which would not have been previously classified as charitable. Provision under the International Trust Act has also been made for the establishment of Asset Protection or Creditor Protection trusts.

Finally, offshore trusts which are regulated by the *International Financial Services Act*, must have all of its assets consisting solely of foreign currency or securities. Both the settlor and beneficiaries must be resident outside of Barbados, and the trust is exempt from all taxes, duties and exchange controls within the island. There is no registration or filing requirements, ensuring confidentiality is maintained. There is a perpetuity period of up to eighty (80) years, and the *International Financial Services Act* allows for income to be accumulated throughout this period. The *International Financial Services Act* also provides for trustees to maintain one or more 'common trust funds', statutorily defined as, "...a trust that operates by the process of pooling funds from a number of participants in the trust who share as beneficiaries under the trust in the income or other gains

derived from the acquisition, holding, management or disposal of assets acquired for the trust.” The trust instrument and any co-trustees must explicitly give permission for this kind of investment, and the common trust itself must be a written declaration of trust, with a certified copy filed with the Central Bank of Barbados, available for inspection by any interested party’s.

Choice of proper law

The proper law is central to any trust, particularly because it applies to the actual administration of the trust, its construction and validity. In Barbados, the choice of proper law is very flexible, as it allows the settlor to express in the trust deed exactly which jurisdiction the trust should fall subject to. However, once the trust has actually been established following the terms of the *International Trust Act*, any questions concerning whether Barbados’ law governs the trust or whether there is uncertainty over the correct disposition of trust property, will be solely determined pursuant to the laws of Barbados. In the case where another jurisdiction’s laws have been selected as the choice of proper law, these wishes must be expressly provided for in the trust document. Furthermore, once the trust instrument provides for it, a trust can also migrate through the appointment of a trustee in another jurisdiction, and by nominating the law of the new jurisdiction to be the choice of proper law for the trust.

Creation of Trust

Who may settle a trust

Statutory provisions do not restrict a trust from being created in a particular form. This can be done either by deed, will or even orally; but, what is definitely required is the clear intention of the settlor to create a trust as sufficient evidence. However, as there is a requirement that international trusts and offshore trusts must expressly state that they are such, it follows that the creation of these trusts must be in a written form. As the law relating to trusts in Barbados derives from a historical background embedded in English common law and rules of equity, any resident or non-resident may settle assets in a Barbados trust, except where a particular legislation provides otherwise.

Trust property

Anything can qualify as property of a trust in Barbados. Neither common law nor equitable principles where Barbados draws its precedence from restricts what can and cannot be categorized as the property of a trust. Trust property, however, is out of bounds for purchase by trustees. Unless sanctioned by a court of law, the beneficiaries have the inherent right to set aside any transaction for personal purchase by a trustee, regardless of how fair and even beneficial to the trust the purchase may have been. This rule includes any sale of trust property to the spouse, child or even a company which the trustee has a controlling interest.

Duration and Termination of Trusts

Under the three (3) legislations governing trust law in Barbados their perpetuity periods clearly stipulate the length of time with which a trust may continue to exist. Domestic and offshore trusts have a lifespan of up to eighty (80) years, while an international trust may continue to exist up to a period of one hundred (100) years. If the trust deed does however, expressly provide for it, a Barbadian trust may come to an end before the perpetuity time limit of an *inter vivos* trust, if the settlor wishes to terminate the trust by revoking it during their lifetime. Such action will not require the consent of the trustees or beneficiaries. The beneficiaries may also be able to terminate a trust early, particularly if the pertinent purpose of the trusts' creation has been achieved or completed. In most circumstances however, a trust will terminate usually on the specified date outlined in the trust, or on the event of a certain occasion.

Beneficiaries

The persons or objects that stand to benefit from the establishment of a trust are seen as the beneficiaries, and in Barbados, they stand to gain either under a discretionary or fixed trust. Both of these types of trusts' offer entitlement to trust assets and the direct vesting of assets to an established beneficiary or class of beneficiaries. Unlike fixed trusts however, discretionary trusts are not required to name the allocated beneficial interest that each named beneficiary is entitled to receive from the settlor. With discretionary trusts it is up to the trustees to name the actual beneficiaries drawn from a nominated class pool. This translates into giving the trustees the flexibility that is necessary to avoid onerous tax burdens in the settlor's country of residence and/or that of the beneficiaries.

Offshore trusts are required by statute to name beneficiaries who are not resident citizens of Barbados. This is not the same however for domestic trusts and international trusts where the former can have beneficiaries that are resident citizens of Barbados, and the latter which under the *International Trusts Act* states that no beneficiary other than an exempt insurance company, international financial services bank, IBC, charity or such other person or body that the Minister specifies, may be residents of Barbados.

Trustees

Trustees are responsible for holding the assets of a trust as the legal owner on behalf of the beneficiaries, subject to the trust deed and the laws of Barbados. It is primarily the trust instrument itself that specifies the duties and discretion of the trustees, and both residents and non-resident individuals and corporations can act in the capacity of trustee of a Barbados trust. While there are no general stipulations as to residency of trustees of trusts, the *International Trust Act* expressly demands that at least one (1) trustee of an international trust be a resident of Barbados.

More often than not the trust instrument will outline the powers and duties of a trustee as to how they are to manage and distribute the trust. Section 30 of the *International*

Financial Services Act gives further direction to trustees holding a license under the act for an offshore trust, who are subject to certain requirements. Such requirements include the duty to keep trust assets separate and apart from other assets and the duty not to keep trust assets awaiting distribution uninvested or undistributed for longer than is necessary. There is also a common law duty placed upon trustees to provide beneficiaries accounts and other documents with regards to the title and whereabouts of the trusts assets, so that the beneficiaries are able to personally review them.

Protector

If it is the settlor's intention, the trust instrument for a Barbados trust can provide for a protector of the trust, and determine just how much power the position is to control. This has become increasingly popular with offshore trusts as a result of the degree of natural uncertainties the settlor may have over relinquishing control over assets in order to benefit from tax and confidentiality protection. Therefore, what the protector essentially does is to offer a buffer of protection for the settlor and also the beneficiaries which for the most part is non-existent. Thus the protector becomes what may be classified as a 'quasi-trustee', who should not be someone benefiting from the trust.

Trust Deed

A trust deed in Barbados may be created practically in any form, expressing the intentions of the settlor, subject only to the limitations on the creation of purpose trusts as laid out in the *International Trusts Act*. Under section 13 1(A) of this Act, there is a requirement that all non-charitable purpose trusts must be registered with the Director of International Business in Barbados, of which the information used in doing such will remain confidential and not available to the public. This registration process carries with it a mandatory fee of BBD\$1,100. While this requirement is applied in very limited circumstances, the International Business Unit of Barbados contends that all international trusts, purpose or non-purpose, should be registered with a governmental entity.

Trusts deeds are generally used in relation to *inter vivos* trusts, and under Barbadian law, there is no requirement to register or file a trust deed with any governmental body. However, if there appears to be any suspicious activity which may fall under the provisions of the *Money Laundering and Financing of Terrorism (Prevention and Control) Act Cap. 129 of the Laws of Barbados*, there is the requirement that it be reported to the relevant authorities.

Formalities

There are generally no formalities required under common law, which Barbados follows, for the creation of an *inter vivos* trust. All that is required is simply the expressed intention of the settlor. This general rule has been statutorily modified in association with trusts of land and dispositions of equitable interests governed by the *Property Act 1979 Cap. 236 of the Laws of Barbados*, and testamentary trusts dictated by the *Succession Act 1981 Cap. 249 of the Laws of Barbados*. These legislative instruments primarily call for

these types of trusts to be in writing and signed by the testator, a process which must be carried out in the presence of two (2) or more witnesses.

ADMINISTRATION OF TRUST

General management

For a Barbados trust, it is preferred that its assets are managed locally, but, in the event that it is not, it is vitally important to ensure that the jurisdiction in which they are being managed recognizes trusts, and has similar rules of private international law to Barbados. The trustees are the ones responsible for the management of the trust assets and they must do so in accordance with the terms as stipulated in the trust instrument and all applicable laws to the extent that they are not varied or excluded by the trust instrument itself.

Under the *Trustee Act*, there is power bequeathed to trustees to be proactive and invest trust assets, whereby the trust becomes productive and income and/or capital appreciation could be expected. This power too can come directly from the trust instrument itself, but a trustee may seek reliance from the provisions of the act if necessary. Barbados has multiple trust companies that deal in the administration of trusts, the majority of which have specialized expertise in asset management of this kind.

Trusts can also be varied according to the *Trustee Act* in relation to trust management and administration and in the event of any arising beneficial interest. Variations are sanctioned through the law courts which have a restricted inherent jurisdiction to depart from the terms of the trust instrument. This usually happens in cases where there is an emergency that has developed, which was not anticipatorially expected in connection with the administration of the trust.

Distribution

There is an expected duty of trustees not to keep trust assets that are awaiting distribution uninvested or undistributed for any longer than is necessary. The *Trustee Act* authorizes the trustees or personal representatives of the trust to advertise by way of notice their intention to make a distribution of property, to both creditors and potential beneficiaries of the trust. The advertisement is to be published once in the islands' *Official Gazette*, and two (2) times in each of the local newspapers. After the notice has been made, claimants who believe that they have an interest in the trust property must send in to the trustees or personal representatives the particulars of their claim, within a stated time limit, from the date of publication of the notice not being less than two (2) months. Upon expiration of the stipulated time period for applicants, the trustees or personal representatives may proceed with the distribution of the trust property, taking into consideration only the claims referred to them via notice after advertisement, and disregarding those who did not give notice at the time of distribution.

The rules of common law also follow the ideology that there are to be no resulting trusts available for any subscribers arising from any surpluses of a trust. It is presumed that it is

the intention of the contributors that beneficiaries are the only ones who should be entitled to surpluses.

Trustees' meetings and resolution

Subject to the directions laid out in the trust instrument, there are no statutory requirements for trustees to hold regular meetings. What does stem from common law and equitable principles is for the trustees to come together for meetings to pass resolutions in the management of the trust. These resolutions are to be documented and could even be placed in the diary of the trustees, in the event that any of the beneficiaries wish to have a look.

Taxation of Trusts and Fiscal Regulations

For a trust to be considered a tax resident there are a number of factors that must be associated with the trust. A domestic Barbados trust becomes subject to income tax once either the settlor or the beneficiaries or both are residents of Barbados, if the trusts assets are located in Barbados and whether the trust derives income outside the island that is then subsequently remitted back to Barbados. Such domestic trusts are taxed at the same rate as are local individuals, and the trustees are the ones liable for the payment of these fiscal charges of this tax calculated on the worldwide income of the trust. Only income derived from Barbados will be taxable when distributions are being made to non-resident beneficiaries.

Since international trusts are those deemed not to be domiciled in Barbados mainly for tax advantages, it is taxed only on income sourced from Barbados, and any overseas income that has been remitted back to Barbados. Income and gains from an international trust in Barbados are exempt from tax, and any amount which is allocated to non-resident beneficiaries out of that income are also not subject to any fiscal charges. This is all clearly outlined in the *International Trusts Act*, and they are also exempt from indirect tax, *ad valorem* stamp duty or any other imposts on transactions undertaken pursuant to its activities. However, any beneficiaries of an international trust are residents of Barbados shall be subject to tax in Barbados on trust income in respect of any year during which they are resident in in the island. In the case where a trust is governed by the International Financial Services Act, namely offshore trusts, no fiscal charges are imposed on either the trust or its beneficiaries. This is statutorially supported by section 94(2) of the *International Financial Services Act* which conditions that no income tax, capital gains tax or other direct tax or impost is due in respect of any dividends, interests or other returns from any shares, securities, deposits or other borrowings of a licensed trustee or any assets managed by a trustee if the dividends, interests or other returns are in respect of shares, securities, deposits or other borrowings or assets beneficially owned by a person who is not a resident of Barbados. The burden of proof of such activity consequently lies squarely on the responsibilities of the trustee. Section 96 of the *International Financial Services Act* goes on to distinguish the requirements for taxation

of a domestic trust from an international trust by mentioning that where a trust has been established by a settlor who is not a resident of Barbados, in favour of beneficiaries who are also not resident in the country, then the trust is exempt from any tax, duty or impost in Barbados. It further provides that this tax exemption only applies where the trust consists solely of foreign currency or foreign securities and is under the management of a licensee. Finally the *International Financial Services Act* aims to also provide exemption from inheritance, succession or similar taxes common to residents of Barbados, in respect of any shares, securities or other assets held in trust for beneficiaries who are not residents of Barbados.