

## GENERAL INFORMATION

Bermuda consists of a group of over 100 islands in the North Atlantic Ocean. Bermuda has no rivers or fresh water lakes. The population of the islands is approximately 62,000 made up of people primarily of European and African origin. Bermuda is a dependent territory of the United Kingdom with Queen Elizabeth the Second as chief of state. Although its only natural resource is limestone, Bermuda enjoys one of the highest per capital incomes in the world. The tourist industry attracts more than 90% of its income from North America.

Bermuda is also one of the leading domiciles in the insurance field with over 1,300 companies carrying on insurance and re-insurance business. It is perhaps the leading offshore centre in the captive insurance field. In terms of collective investments, Bermuda mutual funds or unit trusts have proved popular with investors in the Middle East and Asia because of the security offered by Bermuda as an offshore centre for these funds. The Bermuda Shipping Registry forms part of the British flag registry, allowing for the registration of all types of vessel without restriction. Britain classes it as a category one port of registry.

The Bermuda Stock Exchange (BSE) has been placed on an international level, making it attractive as a place for many of Bermuda's publicly quoted companies to list their shares.

In terms of taxation, probably one of the most attractive benefits of offshore companies incorporated in Bermuda is that there is no profit tax, dividend tax, withholding tax or other form of direct or personal tax. The Bermuda Exempt Company will obtain a tax undertaking that if any such taxation is introduced, the company and its non-resident shareholders will be exempted until the year 2016, a period that is extended by ten years every decade.

## HIGHLIGHTS OF BERMUDA EXEMPT COMPANIES

With almost 50% of all companies listed in the Hong Kong stock markets being Bermuda incorporated companies, Bermuda have attracted considerable significance in this leading commercial centre in South East Asia. Bermuda continues to be the jurisdiction of choice for high profile listings of public companies in Hong Kong and other Asian territories, Australia, Canada and the US. The main reasons for this preference are:

- Taxation benefits arising from international world-wide trading operations transacted under the umbrella of a Bermuda holding Company. Also, Bermuda is a nil tax jurisdiction.
- Favourable tax and stamp duty treatment
- An established reputation as a leading listing domicile particularly for public ventures in Asia. Bermuda is one of the oldest financial offshore centres.
- Bermuda's modern and uncomplicated legislation designed to balance creditor and shareholder protection whilst retaining relative flexibility.
- Bermuda's common law system with an ultimate right of appeal to the UK Privy Council.
- Bermuda's sound legal, banking and accounting structure.
- Bermuda's relative flexibility in the legislation.
- The absence of stamps duty.
- The existence of contributed surplus and the ability of a Bermuda's company to purchase its own shares and shares in its holding company.

### DISCLAIMER

Information contained in this publication does not constitute any kind of advice on any particular matters and should not be considered as such. Andersen & Asociados accepts no responsibility for clients' decision.

## CONFIDENTIALITY

Disclosure of beneficial ownership to the authorities is required although very strict secrecy laws prevent the information from becoming public knowledge. However, Bermuda has not entered into any double taxation agreements with other States, which could obligate the disclosure of information for clients to tax authorities in other countries.

## MOVEMENT OF FUNDS

The currency in use is the Bermuda Dollar, which is on a par with the US Dollar. Exchange control is in operation although an Exempt Company is classified as being non-resident and therefore exempt from the exchange control provisions. However, an exempt company cannot use local currency, other than for the purposes of paying local expenses.

## CORPORATE REQUIREMENTS

**Name:** Names can be in any language using the Latin alphabet. If a non-English language name is used, the Registrar may request a certified English translation to satisfy him that the name is not restricted. Names that are identical to or similar to existing companies or names that imply royal or government patronage are prohibited, as are names, which are considered undesirable or offensive in the opinion of the Registrar. Names that require special consent or a license are: Bank, Building Society, Savings, Loan, Trust, Insurance, Assurance, Re-Insurance, Fund Management, Investment Fund, Fiduciary, Broker or their foreign language equivalent.

**Shareholders:** The ultimate beneficial owner has to be declared to the BMA on application to incorporate a company, even if a nominee shareholder holds the shares. However, this declaration (of the ultimate beneficial owner) is not a public document, although of course the share register is.

**Capital / Shares:** The standard authorized share capital of a Bermuda exempt company is \$12,000 divided into 12,000 common voting shares of \$1.00 each, which is the maximum capital of the minimum capital duty payable on incorporation and annually thereafter. The minimum issued capital is \$1.00. Bearer shares are not permitted in Bermuda. Prior to the enactment of the Amendment Act, a company (other than a mutual fund) was required to maintain a minimum level of authorized and issued share capital (\$12,000). This amount was an arbitrary amount which did not have any bearing on the business activity undertaken by companies. The Amendment Act abolishes this requirement. A company may be incorporated with any amount of authorised share capital. These new provisions do not apply to insurance companies which are registered under the Insurance Act 1978 (as amended) and other companies carrying on business requiring a licence, for which a minimum level of share capital is prescribed under the relevant licensing laws or regulations.

### Directors / Officers:

- 1) Every exempted company shall have –
  - (a) a minimum of one director, other than an alternate director, who is ordinarily resident in Bermuda; or
  - (b) a secretary that is –
    - (i) an individual who is ordinarily resident in Bermuda; or
    - (ii) a company which is ordinarily resident in Bermuda; or
  - (c) a resident representative that is –
    - (i) an individual who is ordinarily resident in Bermuda; or
    - (ii) a company which is ordinarily resident in Bermuda.

Now when appointing the Board of Directors (which must consist of at least 2 Directors), the revision S. 130 now allows and provides for the following:

#### DISCLAIMER

Information contained in this publication does not constitute any kind of advice on any particular matters and should not be considered as such. Andersen & Asociados accepts no responsibility for clients' decision.

- (a) If a resident Director is appointed, the appointed Secretary need not be resident in Bermuda OR
- (b) If a resident Secretary is appointed, none of the appointed Directors need be resident in Bermuda and there is no longer the requirement to also appoint a Resident Representative;
- (c) If all of the Directors and the Secretary are overseas, then a Resident Representative must be appointed.

The Company must have either:

- a) one director who is ordinarily resident in Bermuda; or
- b) a secretary who is ordinarily resident in Bermuda; or
- c) a resident representative who is ordinarily resident in Bermuda.

The resident representative is an individual appointed by the company who is entitled to attend all meetings of the directors and shareholders.

**Registered Office / Agent:** A registered office must be kept in Bermuda. The statutory books of the company must be kept at the registered office and should be available for public inspection.

**Registers of Members:** Details of shareholders must be recorded in the Public Register. There is, however, no such requirement for directors.

**Books, Records and Seal:** Although there is no statutory requirement to file accounts there should be sufficient accounting records to enable the directors and shareholders to ascertain the financial position of the company. The accounting records should be kept at the registered office address. If they are kept outside Bermuda, copies of all accounting records should be available for inspection by the directors each quarter. There is a requirement that all Bermuda companies should appoint an auditor, except where the directors have unanimously vote not to appoint one.

## TAXATION & FEES

The Exempt Company will receive an undertaking from the Minister of Finance that the company will not be subjected to any tax or duty on profits or income capital, gains or appreciation and that no inheritance tax or estate duty will be payable on shares debentures or any other obligations of the company. Currently the exemption extends until 2016 but it is likely to be further extended.

A Company with an authorized capital of up to \$12,000 pays the sum of \$1,995 per annum.

The annual government fee is paid on incorporation, and by 31st January of each year. It is dependent on the authorized share capital of the Company and increases accordingly. Any companies incorporated after the 31st August in any year are liable for only 50% of the annual government fee in that year.

### DISCLAIMER

Information contained in this publication does not constitute any kind of advice on any particular matters and should not be considered as such. Andersen & Asociados accepts no responsibility for clients' decision.