

Offshore Report - 1 June 2004

British Virgin Islands - New Legislation for International Business Companies

The BVI has become the jurisdiction of choice for incorporation of international business companies ('IBCs'). IBCs do not pay any local taxes and allow the flexibility that shareholders require in offshore structures.

The BVI Government is to introduce some amendments to the laws of the jurisdiction which will affect the way in which IBCs are operated. The changes will arise when the International Business Companies (Amendment) Act 2004 comes into force.

The new legislation will introduce incentives for IBCs not to issue bearer shares by requiring IBCs to pay an increased annual licence fee of \$1,000 in order to retain the ability to issue and maintain such shares in the capital of the company. Conversely if an IBC alters its memorandum and articles of association so that it may not issue or retain any bearer shares the licence fee will remain at the current level of \$300 per year. Bearer shares are shares which can be transferred merely by passing the share certificate to another individual, the owner is the person in possession. Bearer shares are viewed with suspicion in the current climate where there is a concerted effort by governments to clamp down on money laundering. Registered shares which require the transfer of shares to be recorded by the company and the entry of the purchaser in a register of shareholders are now mandatory in a number of jurisdictions such as the United Kingdom.

In the long term the new BVI legislation will require that all bearer shares currently in existence be deposited with a custodian or exchanged for registered shares in an IBC. The proposed deadline for the conversion of all bearer shares to registered shares is 31 December 2010. For the purposes of the new legislation which is expected to come into force in 2005 only certain institutions registered under the Financial Services Commission (Amendment) Act 2004 will be able to act as custodians.

Finally, in a further change to the BVI company law, IBCs will need to maintain a register of directors at the registered office of the company. The register will not be open to inspection by the public but will be available to various official authorities.

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