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## ACCOUNTING REGULATIONS IN THE CONTEXT OF A ZERO TAX ENVIRONMENT. THE CASE OF “TAX HAVEN” JURISDICTIONS

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**ABSTRACT:** *The latest amendments brought to the tax havens` fiscal and commercial legislations as a result of the OECD`s pressure made these states and territories subject to a set of accounting rules. The aim of this paper is to present a comparative analysis of the accounting regulations applicable to the offshore companies: The International Business company (IBC) and the Exempt company, in contrast with the local/domestic companies. For the purpose of this analysis I considered six overseas countries and territories (OCTs) having links to the United Kingdom and which had been listed by the OECD in 2000 as tax haven jurisdictions: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Montserrat, Turks and Caicos Islands. The results stand to emphasize the fact that there are no substantial differences in terms of accounting regulations between an offshore company and a domestic company despite the harsh criticism continuously being brought to the offshore sector.*

**KEYWORDS:** Tax haven, Accounting regulations, Fiscal policies, Organization for Economic Cooperation and Development (OECD), International Business company (IBC), Exempt Company

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### INTRODUCTION

In the context of globalization, the raising concerns of the tax planning strategies that exploit gaps in the countries` fiscal policies in order to shift profits from high tax to low tax jurisdictions have been addressed in a new action plan of the OECD, called Base erosion and profit shifting Project (OECD, 2013). New measures are sought in order to prevent double non-taxation and the situations where the income is not taxed in the state where it is generated but artificially directed towards low tax jurisdictions. In the same context it is emphasized that no or low taxation (as the case of tax haven jurisdictions) is not per se the main issue of concern but the artificial arrangements that are created in some situations is the main problem being addressed (OECD, 2013).

An earlier successful project of the OECD aimed the adherence of the tax haven jurisdictions to the internationally agreed tax standards on transparency and exchange of information for tax purposes. Significant changes in both the commercial and fiscal legislations of these territories took place in order for the alignment to the international standards to be achieved.

Taking into account the latest developments in the tax havens` legislation, the aim of this article is to present a comparative analysis in respect of the accounting regulations imposed on the offshore companies as opposed to the local/domestic companies. In this respect, I considered six OCTs: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Montserrat and Turks and Caicos Islands which in 2000 were listed by the OECD under the tax haven headline

(OECD, 2000). They had to revise both their fiscal policies and commercial legislation in order to be in line with the requirements of the EU's Code of conduct for business taxation and the OECD's tax standards of transparency and exchange of information for tax purposes. Currently their tax systems as well as their corporate structures present significant advantages such as: 0% tax rate on profits derived from activities conducted outside the territory where the company is incorporated; low company incorporation and annual fees; advantageous conditions for the management and administration of the company.

The objective of this paper is to identify any significant differences in respect of the accounting regulations applicable to the local/domestic companies in comparison to those imposed on the offshore companies. The offshore legislation is considered to produce ring fencing effects, in that a set of tax advantages are offered only to non residents, while protecting the national tax base of the state offering this type of legislation. Yet, in the case of the territories that have a zero level of taxation for both residents and non-residents, such as the case of most OCTs, the offshore legislation has no harmful effect.

The comparative presentation of the accounting requirements imposed on a local/domestic company versus an offshore company represents the basis for the final conclusions that stress the fact that there are the same accounting provisions that apply to both the local/ domestic companies as well as to the offshore companies. Hence, from an accounting point of view the offshore companies cannot be subject to any criticism in that of promoting a more lax regulatory environment.

## LITERATURE UNDERPINNING

The Organization for Economic Cooperation and Development (OECD) can be considered the most fervent opponent to the *harmful tax legislation* presented by the tax haven jurisdictions. According to the OECD, the key factors in identifying tax havens are: No or only nominal tax rates; Lack of effective exchange of information; Lack of transparency; and No substantial activities (OECD, 1998). The listing of the world's tax havens from 2000 was followed by rapid commitments being made by these states and territories to adhere to the principles of transparency and exchange of information for tax purposes. At the moment there are only two states that meet the tax haven criteria: Nauru and Niue (OECD, 2012).

The specialty literature also provides some definitions for these territories. According to Hines, tax havens are locations with very low tax rates and numerous tax incentives meant to attract investors (Hines, 2005). These territories also present the following characteristics: Small countries, predominantly islands, with a population below 1 million; Good communication infrastructure; Few natural resources; British legal origins with English as an official language; Parliamentary systems; Proximity to the large capital-exporter countries; More affluent than other countries as they attract significant foreign investment due to the low tax rates and opportunities for tax avoidance; and High-quality governance institutions that can be translated in political stability, government effectiveness, rule of law and control of corruption (Dharmapala and Hines, 2009). All these characteristics are important aspects that are taken into account by investors in their decisions.

In the context of globalization tax havens have been analyzed in connection to their power to attract investment and numerous activities, given their low tax environment. Therefore, according to Hines, tax havens have attracted massive foreign investment and they had registered important growing rates in the last 25 years (Hines, 2005). Results indicate that larger companies and those with extensive intrafirm trade and high R and D activities are most likely to use tax havens (Desai et al.,\* 2006). Tax havens provide multinationals with increased opportunities to shift profits to low tax jurisdictions through the numerous tax planning opportunities (Krautheim and Schmidt-Eisenlohr, 2011). It is considered that it has become increasingly difficult for the governments to raise tax revenue on the multinational firms, in the first place because the competition to attract mobile firms creates a downward pressure on profit taxation and second, the multinational firms take advantage of the tax differentials by manipulating profits across jurisdictions (Peralta et al., 2006). Therefore, it can be concluded that taxes have the potential to affect corporate behavior, as there is also evidence that many taxpayers prefer to pay fees to tax advisors than taxes to government (Killian, 2006). Taxes are a motivating factor in the corporate decisions and there is also an increasing worldwide trend for the managerial actions to be designed only to minimize corporate taxes through aggressive tax planning activities (Lanis and Richardson, 2012).

Seen as an entrepreneurial business, accountancy firms supplemented their services by providing tax avoiding schemes to corporations and wealthy individuals (Sikka and Hampton, 2005). Recent studies have shown that tax planning represents a highly significant activity for companies and at the moment after the audit fee, tax related services are the second largest source of income for the UK accounting firms (Wahab and Holland, 2012).

It has also been questioned tax havens` effects over the other economies. The results have shown that these territories divert activity from the high tax jurisdictions and enhance tax competition between countries that would eventually lead to a race to the bottom (Slemrod, 2004). Contrary to these observations, Desai et al. provide evidence that tax havens` operations enhance activities in the nearby high-tax jurisdictions (Desai et al.,\*\* 2006).

The European Union through its *Code of Conduct on business taxation* highlighted the harmful tax measures that needed to be avoided in the construction of a fiscal system in the context of fair tax competition. Falling under the provisions of the Code, the tax legislations of the OCTs came under a review process accompanied by recommendations on the elimination of the harmful tax measures. The following measures were considered to be harmful under the provisions of the Code:

- “1. whether advantages were accorded only to non-residents or in respect of transactions carried out with non-residents, or
2. whether advantages were ring-fenced from the domestic market, so that they did not affect the national tax base, or
3. whether advantages were granted even without real economic activity and substantial economic presence within the Member State offering such tax advantages, or
4. whether the rules for profit determination in respect of activities within a multinational group of companies departed from the internationally accepted principles, notably the rules agreed upon within the OECD, or

5. whether the tax measures lacked the transparency, including where legal provisions were relaxed at administrative level in a non-transparent way.” (Official Journal of the European Communities, 1998).

Following the elaboration of this Code, both the fiscal and commercial legislations of the EU Member states as well as their associated territories had to be amended in order to comply to the Code`s good tax practices. Therefore, the OCT`s legislation also came under a review process in order for their fiscal practices and corporate vehicles to be in line with both the provisions of the EU`s Code and the OECD`s tax standards.

## **METHODOLOGY**

In order to create a comprehensive image of the aspect analyzed, the research was designed to cover relevant aspects regarding the OCT`s tax systems, corporate structures and accounting principles. A comparative analysis is realized at the level of the accounting requirements on the local/ domestic companies versus offshore companies in order to determine any differences that may exist.

### **OCT`s implementation of the OECD`s accounting principle**

The key principles of transparency and exchange of information for tax purposes refer to the implementation of a mechanism for the exchange of information upon request between countries; the strict confidentiality of the information exchanged and the availability of reliable information (bank, ownership, identity and accounting information) and power to obtain and provide such information upon request (OECD, 2009).

In respect of maintenance of accounting records and access to such records, the standard requires the following:

-Reliable accounting records should be kept for all relevant entities and arrangements. To be reliable, accounting records should:

- a). Correctly explain all transactions;
- b). Enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time; and
- c). Allow financial statements to be prepared (no matter if there is an obligation to prepare financial statements or not).

- Furthermore, to be reliable, accounting records should include underlying documentation, such as invoice, contracts, etc which include details of:

- a). All sums of money received and expended and the matters in respect of which the receipt and expenditure take place;
- b). All sales and purchases and other transactions; and
- c). The assets and liabilities of the relevant entity or arrangement.

- Accounting records should be kept for a minimum of five years (OECD, 2006).

All these aspects are summarized under one of the objectives of the standard which comes under the title: *Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements*. According to the level of attaining this objective, the OECD`s Peer Review reports evaluate whether:

- the element is in place, or
- the element is in place but with certain aspects of the legal implementation of the element that need improvement, or
- the element is not in place.

In respect of the six territories under analysis, they attained different levels of implementation of the elements as summarized below.

Anguilla and Montserrat's legislations do not provide for any express requirement that the relevant entities and arrangements must keep underlying documentation, as well as there is no legal provision of keeping the accounting records for a minimum of five years. In their case, it is considered that the element is not in place (OECD Anguilla, 2011, OECD Montserrat, 2012).

The Companies Act of the British Virgin Islands does not clearly identify the type of underlying documentation that needs to be kept by the companies, which can result in an uneven application of the obligation to keep underlying documentation (OECD British Virgin Islands, 2013). In terms of trusts, The Turks and Caicos Islands' Companies Act does not provide for consistent obligations for these entities to keep accounting records for a minimum of five years. The two territories are considered to have the element in place but certain aspects of legal implementation of the element need improvement (OECD Turks and Caicos Islands, 2013).

On the other hand, in the case of Bermuda and the Cayman Islands, all the elements of the standard are in place for all entities and arrangements that are to be found in their commercial legislations (OECD Bermuda, 2013, OECD Cayman Islands, 2013).

### **OCT's tax systems**

The OCT's tax systems came under a review process as a result of their commitment to implement the OECD's tax standards on transparency and exchange of information on tax matters as well as to eliminate the harmful tax measures identified by the Code of Conduct on Business taxation, elaborated by the European Union.

The six OCTs under analysis present either indirect or mixed (direct as well as indirect) tax systems, the latter being characteristic to Montserrat.

A fiscal system based on indirect taxation is characteristic to Anguilla, Bermuda, British Virgin Islands, Cayman Islands and Turks and Caicos Islands. There is no income tax, corporate tax, capital gains, estate tax or other forms of direct taxation neither for residents nor for non-residents. The state collects revenue through a system of indirect taxes.

Montserrat has in place a tax system based on both direct and indirect taxation. Even if the majority of the islands' tax revenue is generated by indirect taxes, direct taxes are levied on corporate and personal income of residents and non-residents as well. Companies conducting activities within the island are subject to a corporate tax rate of 30%, while the revenue generated by the Montserratian exempt company which doesn't carry business activity within the island is tax exempt.



Therefore, it can be observed that five out of the six OCTs have in place a consumption based tax system and they do not impose direct taxes on the profits generated by the companies, except for Montserrat which opted for a mixed tax system which put a tax burden on both companies and individuals, yet, leaving an option to the Exempt type of company.

### **OCT`s offshore corporate structures**

The commercial legislations of the territories under analysis allow for a differentiation between the companies that can conduct commercial activity locally and those that are allowed to trade only outside it. In the case of Anguilla, Bermuda, British Virgin Islands, Cayman Islands, and Turks and Caicos Islands, whose tax legislations do not impose any fiscal burden on the legal entities found under their commercial legislation, the difference resides in their ability to trade within or outside the jurisdiction of incorporation. A differentiation is made between the local/domestic companies and the offshore companies: the International Business companies (IBCs) respectively, the Exempt companies.

Anguilla and Montserrat present IBC legislation, which is separate from the Companies Act under which the local/ domestic companies operate. On the other hand, Bermuda, Cayman Islands and Turks and Caicos Islands eliminated the IBC legislation, while inserting into their commercial laws the Exempt type of company, which in many respects meet the characteristics of the IBC structure. Despite the changes brought to both their commercial and tax legislations, the new BVI Business Company maintains the fundamental characteristics of the IBC.

The IBC and the Exempt company resemble in many respects. Both of them are not allowed to carry business activities with persons that are resident on the islands where they are incorporated and they should not hold land or own any interest in real estate property. The IBC`s legislation poses specific restrictions in carrying on banking, insurance or reinsurance business as well as company management activities. On the other hand, the general condition imposed on the exempt company is that it should not carry on business of any kind or type in the islands of incorporation.

In terms of the incorporation conditions, an IBC is set up under the International Business Companies Act, whereas the Exempt company is registered under the Companies Act.

According to the IBC legislation, an IBC is always a limited liability company while an Exempted company may be with or without limited liability.

Every IBC and Exempt company must have a registered office and a registered agent in the island where it is incorporated. The registered office and the registered agent must be provided by persons who hold a relevant licence.

The IBC is managed by a board of directors that consists of one or more persons who may be either individuals or companies. The meetings of the directors of an IBC may be held within or outside the jurisdiction of incorporation. Also, the affairs of an exempt company are required to be managed by at least one director.

Upon incorporation and each year thereafter, an IBC and an Exempt company are due to pay to the local Government a fixed fee established according to the authorized share capital of the company.

Therefore, it can be observed that both the IBC and the Exempt company have many common features in respect of the functioning conditions, management and administration as well as fixed fees which must be paid to the local Government in the context of an environment which does not impose direct taxation on the profits generated by the companies.

### **Accounting requirements on the local/ domestic companies versus offshore companies**

Given the fact that the IBC functions under a separate legislative act as compared to the local/ domestic companies, the accounting requirements can be analyzed comparatively. On the other hand the Exempt type of company is subject to the same accounting rules as the local companies since they are to be found under the same legislative act.

Under Anguilla`s Companies Act the provisions regarding the accounting records for both the private and public companies come under the title *Financial Disclosure* (Anguilla – Companies Act, 2000). On the other hand, Anguilla`s International Business Companies Act refers only to the private companies whose accounting rules are presented under *Part 6 - Protection of shareholders and creditors* (Anguilla – International Business Companies Act, 2006).

Both a local company (public or private), as well as an IBC must keep accounting records that:

- are sufficient to record and explain the transactions of the company; and
- will, at any time, enable the financial position of the company to be determined with reasonable accuracy (Anguilla – International Business Companies Act, 2006).

In addition to these requirements, Anguilla`s Companies Act stipulates the aspects that need to be presented within the accounting records, namely:

- a). entries from day to day of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place;
- b). details of all sales and purchases of goods by the company; and
- c). a record of the assets and liabilities of the company (Anguilla – Companies Act, 2000).

The accounting records must be kept at the registered office of the IBC or at any other place outside the island of incorporation, as the directors may determine. Yet, in the case of a local company, if the accounting records are kept outside Anguilla, the company must ensure that it keeps at its registered office:

- a). accounts and returns adequate to enable the directors of the company to ascertain the financial position of the company with reasonable accuracy on a quarterly basis; and
- b). a written record of the place or places outside Anguilla where its accounting records are kept (Anguilla – Companies Act, 2000).

In addition, the preparation of the financial statements is required only in the case of the public companies which are set up under the Anguilla`s Companies Act as the private company and the IBC are exempted from this requirement.

In the case of Montserrat, the two legislative acts, the Companies Act and the International Business Companies Act present the same differences in terms of accounting records as in the

case of Anguilla (Montserrat – Companies Act, 2008, Montserrat – International Business Companies Act, 2008).

The BVI Business Companies Act provides the same set of rules in respect of the accounting records as the IBC legislation. The only additional specification relates to the records that are required to be kept:

- a). in written form; or
- b). either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act (The BVI Business Companies Act, 2005).

The records may also be kept at another place, within or outside the British Virgin Islands, in which case the company must notify the registered agent of the place where the records are kept. Also, the BVI Business Company is required to keep underlying documentation, such as invoices, contracts, etc, yet without being specified the type of this documentation. The British Virgin Islands interpret underlying documentation to include any document necessary for the construction or recreation of a transaction. Also, the accounting records and the underlying documentation of a BVI Business company must be kept for at least five years from the date of completing the transaction to which the records relate.

In practice, the accounting records do not have to be provided to the authorities in the BVI except in the course of inspections on licensed service providers. It can be observed that there is no express obligation for the BVI Business Company to prepare financial statements (OECD British Virgin Islands, 2013).

The Exempt type of company that is to be found in the Companies law of Bermuda, Cayman Islands and Turks and Caicos Islands are subject to the same set of accounting requirements as the local/domestic companies that conduct business within these territories.

Therefore, the Exempt companies of Bermuda, Cayman Islands and Turks and Caicos Islands must keep proper records of account with respect to:

- all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place;
- all sales and purchases of goods by the company;
- the assets and liabilities of the company (Bermuda – Companies Act, 2014).

The records of account may be kept at the registered office of the company or at any other place within or outside the islands.

In the case of Bermuda, if the records of account are kept at some place outside Bermuda, at the company`s registered office in Bermuda there should be kept records based on which it can be determined with reasonable accuracy the financial position of the company at the end of each three month period (Bermuda – Companies Act, 2014). The accounting records and the underlying documentation is kept for the minimum period of five years and all companies must prepare audited financial statements at the general meeting of the company and retain such statements for six years. Yet, there is no requirement to file accounting records with any government authority (OECD Bermuda, 2013).

The Cayman Islands` legislation states that no matter where a company keeps its books of account, upon a request of the Tax Information Authority, it must make available in electronic



form or any other medium, at its registered office copies of its books of account (Cayman Islands – Companies Law, 2013). All relevant accounting records as well as the underlying documentation are required to be kept for a minimum of five year. There is no legal provision for the companies to prepare financial statements or to submit to the Companies Registry any accounting information. There is also no requirement for the service providers to maintain accounting information for entities for which they act (OECD Cayman Islands, 2013).

In the case of the Turks and Caicos Islands, companies may keep the accounting records at a location different from the registered office. The amended Companies Ordinance from 29 July 2011 introduced the requirement for all companies to keep underlying accounting documents for at least five years from the date they are prepared. There is no obligation for companies to file accounting information with a government authority and neither to prepare financial statements (OECD Turks and Caicos Islands, 2013).

The requirement for preparation of the financial statements can be found only in Bermuda's Companies Act. Therefore, every Bermudian Exempt Company must prepare financial statements which include:

- a statement of the results of operations for the period;
- a statement of retained earnings or deficit;
- a balance sheet at the end of such period;
- a statement of changes in financial position or cash flows for the period;
- notes to the financial statements (Bermuda – Companies Act, 2014).

The notes should include a description of the generally accepted accounting principles used in the preparation of the financial statements. These principles may be: those of Bermuda or a country other than Bermuda. Where the generally accepted accounting principles used are other than those of Bermuda, the notes should specify the generally accepted accounting principles used (Bermuda – Companies Act, 2014).

In respect of the OECD's internationally agreed tax standards we can observe by examining the Companies' legislation the fact that the IBCs are not yet legally required to retain underlying accounting documents (invoices, contracts, etc) and neither to keep them for the minimum of five years. The same is available for the local/ domestic companies of Anguilla and Montserrat. The BVI Business Company adheres to the OECD's accounting principles, yet it is not specifically stated the type of underlying documentation to be kept, which could result in an uneven application of the obligation to keep underlying documentation. On the other hand the Exempt Companies of Bermuda, Cayman Islands and Turks and Caicos Islands fully satisfy the conditions set by the OECD in respect of the accounting records, underlying documentation and the five year retention period of these documents.

## RESULTS

The comparative analysis conducted on the accounting provisions applicable to the local/ domestic companies and offshore companies of the six OCTs chosen reveals the fact that there are only fine differences in terms of the accounting requirements applicable to the local companies as compared to those applicable to the offshore companies. Therefore, both in the

case where the offshore structure is incorporated under the local Companies Act or under a separate legislative act, the accounting requirements are similar in many respects. Yet, in order to fully comply to the OECD's accounting requirements, a set of legislative amendments need to be enforced both in the local and offshore Companies Acts.

## DISCUSSION

As a first observation, Anguilla and Montserrat are the only two territories that maintained two parallel legislative acts, the Companies Acts under which the local/ domestic companies operate and which are free to trade within the territory of incorporation and the International Business Companies Act under which the companies are allowed to trade only outside the territory of incorporation. This separation raised the concern of a ring fencing effect, yet the neutrality of Anguilla's tax system does not pose the problem of a harmful differential treatment, whereas in the case of Montserrat which charges a 30% corporate tax rate on the profits generated within the territory, the IBC used by the non-residents is seen as benefiting from an advantageous 0% tax treatment. This differential treatment is the first harmful measure identified by the EU's Code of Conduct for business taxation: "advantages are accorded only to non-residents or in respect of transactions carried out with non-residents" (Official Journal of the European Communities, 1998).

In terms of the accounting regulations, the Companies Acts of both Anguilla and Montserrat provide more directions in terms of the aspects that need to be presented within the accounting records. On the other hand the IBC legislation does not provide these specifications. Neither the local company, nor the IBC is required to prepare financial statements or to file accounts with the competent authorities. In terms of adherence to the OECD's standards concerning accounting requirements, neither the local company nor the IBC is legally obliged to maintain underlying accounting documents or to keep these documents for the minimum of five years. Therefore, from an accounting point of view, the differentiation between a local company and an IBC resides in the fact that the extent of explanation concerning the aspects that need to be presented within the accounting records is more detailed in the case of the local company.

A second observation relates to the case of the BVI Business Company. In order to become compliant to the EU's Code of Conduct for business taxation, British Virgin Islands had to amend both its commercial and tax legislations and therefore, it abolished its International Business Company Act which conferred tax exempt status on revenues generated outside the island. In 2005, it was introduced a uniform 0% tax regime applicable to all the entities and individuals. Under the new legislation the IBC became known as the BVI Business Company. Among many similarities with the IBC structure, the BVI Business Company Act presents the same accounting requirements as the IBC legislation, the only additional specification being related to the possibility to keep the accounting records either in written or electronic form. In terms of the OECD's requirements, the BVI Business Company legislation must be amended in order to introduce the type of underlying accounting documentation needed. It can be concluded that despite the new denomination accorded, in substance, the BVI Business companies follow the same set of accounting rules as the IBC structure.

A third observation relates to the absorption of the Exempt type of company into the local commercial legislation which comes under the name of Companies Act and which results in the adherence of this type of company to the same set of rules as the local companies. In terms of the accounting requirements, the Companies Acts of Bermuda, Cayman Islands and Turks and Caicos Islands present the same elements as the Companies Acts of Anguilla and Montserrat. The only difference resides in the requirement that all Bermudian companies, both local and Exempt, must prepare financial statements.

It also needs to be emphasized the fact that neither the financial statements nor the accounting records must be submitted to the competent authorities since these territories have in place a neutral tax system. Companies are required to keep accounting records in order to comply to the articles of the commercial legislations and to the Anti-money laundering (AML) regulations which are imposed on the service providers.

### **IMPLICATION TO RESEARCH**

The accounting provisions applicable to the offshore companies had not been approached before in the academic literature and therefore the results of this analysis came to shed light on the even application of the accounting principles to both local and offshore companies, eliminating thereby any suspicion of differential or preferential treatment. Even though the alignment to the OECD's accounting requirements has not been entirely reached the same set of rules apply both to the local/domestic companies and the offshore companies that are to be found in the tax haven jurisdictions under analysis.

### **CONCLUSION**

Despite being subject to separate legislative acts, it can be observed that in terms of the accounting regulations there are no substantial differences between the local companies and the IBC structures which are considered to represent the highly criticized offshore sector. On the other hand, the Exempt type of company which comparatively analyzed with an IBC presents the same features, through the incorporation within the local commercial legislation and by its adherence to the same set of rules it was seen as a more compliant structure. Yet, the final conclusion of this article is that from an accounting point of view, there are no substantial differences between the provisions found under the IBC legislations and the Companies Acts that comprise both the Exempt type of company and the local companies. Therefore, an offshore structure such as the IBC, although it is subject to a separate legislative act, should be viewed as meeting the accounting requirements of the local commercial legislation as it adheres to the same set of principles. Yet, the main problem that will continue to be addressed is the need for the tax havens' legislations to totally adhere to the OECD's minimum accounting requirements.

### **References**

Anguilla – Companies Act (2000) *Revised statutes of Anguilla. Chapter C65. Companies Act, showing the Law as at 15 December 2000*, available online at <http://www.fsc.org.ai/PDF/C065-Companies%20Act.pdf>

- Anguilla - International Business Companies Act (2006) *Revised Statutes of Anguilla. International Business Companies Act, Showing the Law as at 15 December 2006*, available online at <http://www.fsc.org.ai/PDF/I020-International%20Business%20Companies%20Act.pdf>
- Bermuda - Companies Act (2014) *Bermuda Companies Act 1981 amended by 2014:13*, available online at <http://www.bermulaw.com/Laws/Consolidated%20Laws/Companies%20Act%201981.pdf>
- Cayman Islands - Companies Law (2013) *Consolidated and Revised Edition of Companies Law, 1963. Showing the law as at 31 July 2013*, available online at [https://www.itpa.org/?page\\_id=232](https://www.itpa.org/?page_id=232)
- Desai, A. M., Foley, C.F. and Hines Jr., J.R.\* (2006) *The demand for tax haven operations*, Journal of Public Economics, 90 513-531.
- Desai, A. M., Foley, C.F. and Hines Jr., J.R.\*\* (2006) *Do tax havens divert economic activity?*, Economics Letters, 90 219-224.
- Dharmapala, D. and Hines Jr., J.R. (2009) *Which countries become tax havens?*, Journal of Public Economics, 93 1058-1068.
- Hines Jr., J.R. (2005) *Do tax havens flourish?*, Tax Policy and the Economy, 19 65-99.
- Killian, S. (2006) *Where is the harm in tax competition? Lessons from US multinationals in Ireland*, Critical perspective on Accounting 17 1067-1087.
- Krautheim, S., and Schmidt-Eisenlohr, T. (2011) *Heterogeneous firms, 'profit shifting' FDI and international tax competition*, Journal of Public Economics 95 122-133.
- Lanis, R., and Richardson, G. (2012) *Corporate social responsibility and tax aggressiveness: An empirical analysis*, J. Account. Public Policy 31 86-108.
- Montserrat – Companies Act (2008) *Chapter 11.12. Companies Act and Subsidiary Legislation. Revised Edition showing the law as at 1 January 2008*, available online at <http://agc.gov.ms/wp-content/uploads/2011/10/Companies-Act.pdf>
- Montserrat - International Business Companies Act (2008) *Revised Edition of International Business Companies Act, 1986. Showing the law as at 1 January 2008*, available online at <http://agc.gov.ms/wp-content/uploads/2011/10/Intl-Business-Companies-Act.pdf>
- OECD (1998) *Harmful Tax Competition: An Emerging Global Issue*, available online at <http://www.oecd.org/tax/transparency/44430243.pdf>
- OECD (2000) *Towards Global Tax Cooperation: Progress in identifying and eliminating Harmful Tax Practices*, available online at <http://www.oecd.org/tax/transparency/44430257.pdf>
- OECD (2006) *Tax Co-operation – Towards a level playing field, Annex III, Final JAHGA Paper, Enabling Effective Exchange of Information*, available online at <http://www.oecd.org/tax/transparency/44430286.pdf>
- OECD (2009) *Tax Co-operation 2009. Towards a level Playing Field. Assessment by the Global Forum on Transparency and Exchange of Information*, available online at <http://www.oecd.org/tax/transparency/44429779.pdf>
- OECD (2012) *A Progress Report on the jurisdictions surveyed by the OECD Global Forum in implementing the internationally agreed tax standard. Progress made as at 5<sup>th</sup> December 2012*, available online at [http://niemands.ru/files/international\\_law/OECDreport.pdf](http://niemands.ru/files/international_law/OECDreport.pdf)
- OECD (2013) *Action Plan on Base Erosion and Profit Shifting*, OECD Publishing, available online at <http://dx.doi.org/10.1787/9789264202719-en>

- OECD Anguilla (2011) *Peer Review Report. Phase 1. Legal and regulatory framework, Anguilla 2011. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/AI#latest>
- OECD Bermuda (2013) *Peer Review Report. Phase 2. Implementation of the standards in practice, Bermuda 2013. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/BM#latest>
- OECD British Virgin Islands (2013) *Peer Review Report. Phase 2. Implementation of the standards in practice, British Virgin Islands 2013. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/VG#latest>
- OECD Cayman Islands (2013) *Peer Review Report. Phase 2. Implementation of the standards in practice, Cayman Islands 2013. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/KY#latest>
- OECD Montserrat (2012) *Peer Review Report. Phase 1. Legal and regulatory framework, Montserrat 2012. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/MS#latest>
- OECD Turks and Caicos Islands (2013) *Peer Review Report. Phase 2. Implementation of the standards in practice, Turks and Caicos Islands 2013. Global Forum on transparency & Exchange of Information for Tax Purposes*, available online at <http://eoi-tax.org/jurisdictions/TC#latest>
- Official Journal of the European Communities (1998) *Conclusions of the ECOFIN Council meeting on 1<sup>st</sup> December 1997 concerning taxation policy (98/C 2/01), Volume 41 of 6 January 1998*, available online at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:C:1998:002:TOC>
- Peralta, S., Wauthy, X. and Ypersele, T. (2006) *Should countries control international profit shifting?*, *Journal of International Economics* 68 24-37.
- Sikka, P. and Hampton, M.P. (2005) *The role of accountancy firms in tax avoidance: Some evidence and issues*, *Accounting Forum* 29 325-343.
- Slemrod, J. (2004) *Are corporate tax rates or countries converging?*, *Journal of Public Economics* 88 1169-1186.
- Wahab, N.S.A. and Holland, K. (2012) *Tax planning, corporate governance and equity value*, *The British Accounting Review* 44 111-124.

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