

Cayman - Where International Capital Meets
Dispelling the Myths and Providing the Facts About Cayman and US Taxes

Members of Congress often call Cayman a tax haven. Cayman is actually a tax neutral financial services center with stable political and judicial institutions and prominent professional services firms. Government revenue is generated principally through an effective system of tariffs, rather than the imposition of an income or corporate tax on its citizens or businesses. Because of its sound public finances, the Cayman Islands government does not consider it necessary to introduce a direct tax system. Indirect taxation raises sufficient funds with minimal collection costs.

Companies based in Cayman engage in cross-border business transactions that enable US aircraft to be sold to emerging-market airlines; US banks to make secured loans to finance power projects in developing countries; and US businesses to access global markets more competitively. Well-known development agencies, such as the World Bank (through its subsidiary, the International Finance Corporation) often invest through Cayman Islands investment funds to provide capital for infrastructure projects in developing countries.

Tax Neutrality

Neutrality means that Cayman does not impose an additional layer of tax on investments made through businesses organized in Cayman. Capital from the US, Europe, the Middle East and Asia can be combined into one pool in Cayman and invested throughout the world, including foreign direct investment in the United States.

Frequently multi-national companies and investment managers have difficulty reconciling the complex and possibly conflicting tax and securities laws of disparate investors home countries to site a transaction, without giving one investor a "home field advantage." Instead of depriving the United States of tax revenue, Cayman provides a level playing field for their capital to meet, combine resources, and invest. This tax neutrality is not tax evasion; the investors must pay their home country taxes, but are not subject to tax in Cayman.

Tax Transparency and Compliance

Cayman has engaged in the international exchange of information for tax purposes for more than a decade providing information both on request and on an automatic basis. The Cayman Islands treaty network extends to 112 treaty partners.

- In 2013 Cayman entered into a Model 1B Intergovernmental agreement with the United States for the purposes of FATCA. This agreement is in force and

effect and has been implemented via domestic legislation. First reporting to the US took place in 2015.

- The Cayman Islands is also one of the 101 committed jurisdictions for the Common Reporting Standard (CRS) and will undertake first exchanges in 2017. And the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which was extended to the Cayman Islands by the United Kingdom came into force on 1 January 2014 provides for all forms of international administrative cooperation.
- In addition to exchanges of tax information, Cayman legislation requires the collection of ultimate beneficial owner information on all businesses organized in Cayman. Furthermore, in keeping with the G20 High Level Principles on Beneficial Ownership, and to honour commitments made to the UK in 2016, Cayman enacted amendment laws on 1 July 2017 requiring beneficial ownership registers to be maintained and filed with a local competent authority, and has implemented penalties for failure to comply with this requirement.

Accordingly, Cayman has a strong record of cooperation with the United States authorities in aiding enforcement of US law. Since the Mutual Legal Assistance Treaty with the U.S. was signed in 1986, the two governments have cooperated in 262 requests for assistance under the Treaty, resulting in successful law enforcement actions. Assets seized under such actions have been both shared by the U.S. and the Cayman Islands under an asset-sharing agreement as well as returned to the U.S. for restitution to victims of fraud and other crimes.

Deferral and minimum taxes. Cayman, like most everywhere else, permits the ownership of intellectual property in its business organizations. Imposing current taxation through a minimum tax on foreign IP income or other income may raise funds for the United States, which is its prerogative. But it should be understood that Cayman does not benefit from IP sited there, and imposing a current minimum tax on top of US taxes will merely make US goods more expensive worldwide, and thus less competitive in international markets.

Accumulated foreign earnings. The US may seek to tax accumulated foreign earnings as part of its tax reform legislation, which again is its prerogative. Accumulated foreign earnings are not sitting idle in Cayman. Much of these earnings are reinvested via international financial centers back into the US, and into other major economies. It should be cautious about unwinding this situation by imposing taxation over a period of years.

If this information doesn't fit the stereotype perpetuated about Cayman, don't just take our word for it. After a thorough investigation in 2008, the GAO found that Cayman has a stable and internationally compliant legal system with strong creditor

protections, and stated that US persons can legally defer their non-subpart F foreign source income from current US taxation through the use of Cayman entities. This is not a surprise to the US government; its agencies such as the Overseas Private Investment Corporation and Export-Import Bank support transactions using Cayman entities engaged in international transactions. Cayman hopes that in the debate over US tax reform in Congress, this point is acknowledged without unnecessary criticism of Cayman, and legitimate international business transactions undertaken there, by US persons and others.

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The Cayman Islands Government is sharing this information while the United States debates tax reform to prevent misconceptions about its economy and tax policies. Under the U.S. Foreign Agents Registration Act, this material is distributed by Baker Botts LLP on behalf of the Ministry of Financial Services & Home Affairs, Cayman Islands Government. Additional information is available at the Department of Justice, Washington, DC.

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