

Key Facts Companies

The US Virgin Islands' Exempt Company legislation was enacted in 1986, creating a corporate regime that is used for international investments and joint ventures. Exempt Companies are required to appoint a local registered agent.

Exempt Companies (EC)

The principal requirements for qualification as an EC are the following:

- The company may not engage in the active conduct of trade or business in the US Virgin Islands or the US;
- Individuals who are residents of either the US or the US Virgin Islands may not own 10% or more of the company (see below);
- The company must file an EC election with the US Virgin Islands authorities.

Tax Status

An EC is exempt from all US Virgin Islands income, gross receipts, withholding taxes and licence requirements. In addition, ECs do not pay tax on US Virgin Islands source income such as interest and dividends. Interest paid to creditors by an EC is also not subject to withholding tax. Furthermore, shares held by non-US persons in an EC are not subject to US or US Virgin Islands estate or gift tax.

A 20-year contract guaranteeing the tax exempt status of the company is issued after the company is incorporated.

Limitations on Ownership

The EC legislation imposes a limitation on the extent to which either a US or US Virgin Islands resident or company may maintain an ownership interest in an EC.

A company will qualify as an EC only if less than 10% of

- The total voting power of the stock of such corporation, or
- The total value of the stock of such corporation is owned, directly or indirectly, by one or more US and US Virgin Islands persons.

Corporate Law

The incorporation and ongoing corporate governance of an EC is subject to the US Virgin Islands' corporate code which is based on the Delaware Corporate Code of 1953.

Trident Trust Company (VI) Ltd's EC administration services are designed to ensure full compliance by the company with local corporate law requirements.

Government Fees, Annual Report & Franchise Tax

The fees payable by an EC to the US Virgin Islands are as follows:

- Incorporation - \$400
- Annual Franchise Tax - \$1,000 (payable by 30 June of each year)

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Each EC is required to file a combined annual franchise tax report signed by a Director or Officer of the company. The report must provide information on the Directors and Officers of the company and confirmation that the company's ownership meets the necessary foreign requirements. No information is required to be provided in the annual report on the identity of the Shareholders of the company.

Trident Trust Company (VI) Ltd. is able to provide Nominee Shareholder, Trustee and Director services for ECs subject to the execution by clients of a standard indemnity agreement.

Exchange of Information Agreement with US

The US Virgin Islands and the US Governments have entered into an agreement governing the "exchange of information and mutual assistance with respect to taxes in order to prevent the evasion or avoidance of US or Virgin Islands taxes."

The principal goal of the agreement is to ensure that the tax authorities of the US and US Virgin Islands coordinate the treatment of tax residents of their respective jurisdictions and ensure that the information required for this purpose can be obtained.

The exchange of information agreement contains no express provisions relating to ECs. However, the agreement does anticipate that the US Virgin Islands will routinely supply to the US, to the extent available and subject to the tolerances and criteria to be agreed upon by the competent authorities, "... information about the ownership interests of all corporations subject to Virgin Islands tax with non-Virgin Islands source income that receive a rebate, subsidy or reduction of Virgin Islands taxes."

Information disclosed to the US by the US Virgin Islands, pursuant to the agreement, becomes "taxpayer return information" as defined by the

Internal Revenue Code and may be redisclosed only in accordance with provisions of the Code or an applicable treaty.

Uses for Exempt Companies

ECs should be considered in the following situations:

- Investments in countries where the possibility of political uncertainty and nationalisation exists and where there are perceived advantages for the investments to be held by a US entity.
- Where access is sought to the benefits afforded by a US Treaty of Friendship, Commerce and Navigation or Investment Treaty for investments in a treaty partner country.
- Joint ventures between non-US parties involving non-US operations which want to use a US company for operating the joint venture.
- As an international estate planning tool as the stock of an EC is not subject to US or US Virgin Islands estate taxes.
- Registration by foreign owners of aircraft under the US Federal Aviation Administration Act of 1958. (The FAA requires that a US citizen or a company incorporated in a US state or possession be the owner of an aircraft registered under its authority. An EC using a qualifying voting trust will satisfy the FAA requirements entitling the aircraft to obtain an "N" registration.)

Additional advantages of using ECs include access to modern company management, accounting and banking services in the US Virgin Islands.

Voting Trusts for Aircraft Registration

Where an EC will be the registered owner of an aircraft registered under the US Federal Aviation Administration Act, Trident Trust Company (VI) Ltd. will arrange for Trident Trustees (VI) Ltd. to act as the trustee of the required voting trust.

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