

# 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.

# Offices

## The Americas/Caribbean

### Bahamas

Trident Corporate Services  
(Bahamas) Ltd  
T: +1 242 322 6154  
bahamas@tridenttrust.com

### Barbados

Trident Corporate Services  
(Barbados) Ltd  
T: +1 246 621 0760  
barbados@tridenttrust.com

### British Virgin Islands

Trident Trust Company (BVI) Ltd  
T: +1 284 494 2434  
bvi@tridenttrust.com

### Cayman Islands

Trident Trust Company  
(Cayman) Ltd  
T: +1 345 949 0880  
cayman@tridenttrust.com

### Nevis

Morning Star Holdings Ltd  
T: +1 869 469 1817  
nevis@tridenttrust.com

### Meridian Trust Company Ltd

T: +1 869 469 1333  
nevis@tridenttrust.com

### Panama

Trident Trust (Panama) S.A.  
T: +507 302 7494  
panama@tridenttrust.com

### United States

#### Atlanta

Trident Corporate Services, Inc  
T: +1 404 233 5275  
usa@tridenttrust.com

#### Miami

Trident Fund Services  
T: +1 305 405 9006  
miami@tridenttrust.com

### New York

Trident Corporate Services, Inc  
T: +1 212 840 8280  
nyc@tridenttrust.com

### Sioux Falls

Trident Trust Company  
(South Dakota) Inc  
T: +1 605 679 4355  
sd@tridenttrust.com

### US Virgin Islands

Trident Trust Company (VI) Ltd  
T: +1 340 774 7322  
usvi@tridenttrust.com

## Asia

### Hong Kong

Trident Corporate Services (Asia) Ltd  
and Trident Trust Company (HK) Ltd  
T: +852 2805 2000  
hongkong@tridenttrust.com

### New Zealand

Trident Trust Company (NZ) Ltd  
T: +64 9 300 6067  
nz@tridenttrust.com

### Singapore

Trident Trust Company  
(Singapore) Pte Ltd  
T: +65 6653 1800  
singapore@tridenttrust.com

## EMEA

### Cyprus

Trident Trust Company (Cyprus) Ltd  
T: +357 258 20 650  
cyprus@tridenttrust.com

### Trident Fiduciaries (Middle East) Ltd

T: +357 253 53 520  
fiduciariesme@tridenttrust.com

### Dubai

Trident Trust Company (UAE) Ltd  
DMCC Branch  
T: +971 4 423 9988  
dubai@tridenttrust.com

### Guernsey

Trident Trust Company  
(Guernsey) Ltd  
T: +44 1481 727571  
guernsey@tridenttrust.com

### Isle of Man

Trident Trust Company (IOM) Ltd  
T: +44 1624 646700  
iom@tridenttrust.com

### Jersey

Trident Trust Company Ltd  
T: +44 1534 733401  
jersey@tridenttrust.com

### Luxembourg

Trident Trust Company  
(Luxembourg) S.A.  
T: +352 26 30 28 48  
luxembourg@tridenttrust.com

### Malta

Trident Trust Company (Malta) Ltd  
T: +356 21 434 525  
malta@tridenttrust.com

### Mauritius

Trident Trust Company  
(Mauritius) Ltd  
T: +230 210 9770  
mauritius@tridenttrust.com

### Seychelles

Trident Trust Company  
(Seychelles) Ltd  
T: +248 4 422 000  
seychelles@tridenttrust.com

### Switzerland

Trident Corporate Services AG  
T: +41 44 396 1080  
switzerland@tridenttrust.com

### United Kingdom

Trident Trust Company (UK) Ltd  
T: +44 20 7935 1503  
uk@tridenttrust.com

### Trident Company

Services (UK) Ltd  
T: +44 20 7487 0460  
corpsservices@tridenttrust.com