

**DOING
BUSINESS
IN**

Channel Islands



*doing business in
Channel Islands*

foreword

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Location, Climate and Population

The British Channel Islands consist of two large islands, Jersey and Guernsey; three smaller islands, Alderney, Sark and Herm and islets.

Jersey is the largest island with an area of approximately 47 square miles and a population of 88,000. It lies about 100 miles to the South of England and 12 miles to the West of the Cherbourg Peninsula in France.

Guernsey is approximately 24 square miles (62 square kilometres) in size and has a population of approximately 60,000.

Alderney and Sark have populations of about 2,000 and 500 respectively.

Due to the presence of the gulf stream Jersey experiences comparatively genial weather and climate, in which marked variations or extremes are lacking.

Constitution

The Channel Islands are Crown Dependencies and constitutionally have the rights of self-government and judicial independence.

These rights were granted by Royal Charter 800 years ago and are not affected by any changes in European or United Kingdom government.

The legislative assemblies, the States of Jersey and the States of Guernsey (in which Bailiwick the other islands fall) are responsible for all the islands' domestic legislation, including taxation and financial regulation.

Languages and Currency

English is the official language. Currency in the islands is the pound sterling (GBP). The States of Jersey and the States of Guernsey issue their own notes which circulate alongside UK currency.

Legal System

Jersey, Guernsey and Alderney are separate legal jurisdictions. Their law derives from the Customary laws of the old Duchy of Normandy, legislation and judicial decisions.

The laws effective within the Channel Islands thus have a different foundation to that of the UK. Sources of legislation in Jersey may be found in Royal Charters, UK Acts of Parliament, Orders in Council made under the Royal Prerogative or pursuant to an Act of Parliament and Acts or Laws of

the States. Ultimate appeal from the local Courts lies with the Privy Council.

Economy and Economic Arrangements

The Channel Islands have been renowned international finance centres for almost 50 years.

The proximity to Europe without being within the European Union and a time zone that links occidental and oriental business centres offer significant advantages.

In Jersey, out of the population of 88,000 there are over 12,000 professionally trained staff in the finance industry.

The Islands' governments have implemented a strict regulatory environment in the Islands and continue to attract firms, banks and institutions of the highest quality and reputation.

These measures support the continued success of the finance industry which dominates the economy in the Islands.

The G8 Financial Stability Forum has recognised Jersey as being one of the top finance centres in the supervision and regulation of financial services.

Relationship with the European Union

The Islands have a special status ratified under Protocol 13 of the Treaty of Accession of the United Kingdom to the European Community in 1972. They are neither separate member states nor associate members of the European Union.

Under the Protocol, the Islands are free to trade in commercial and agricultural products, but are not bound by Directive or Regulations in e.g. financial services, taxation and monetary union.

investment factors

Special Features

The Islands offer a 'one-stop-shop' for highest quality solutions in the offshore industry. These are backed up by the quality of the supervisory and regulatory regimes.

In particular, for example in Jersey, the following legislation has been put in place and continues to be developed to protect the international investor.

Trusts (Jersey) Law 1984
Collective Investment Funds (Jersey) Law 1988
Financial Services (Jersey) Law 1998
Bank Business (Jersey) Law 1991
Proceeds of Crime (Jersey) Law 1999
and the related Money Laundering (Jersey) Order 1999
Companies (Jersey) Law 1991
Limited Liability Partnerships (Jersey) Law 1997
Limited Partnerships (Jersey) Law 1994
Insurance Business (Jersey) Law 1996
Financial Services (Jersey) Law 1998

Personal and Corporate Banking

Through the high quality of banking regulation, the Islands' other extensive international, corporate and private banking, treasury operations and global custody, a significant number of leading international banks have long held a presence in the Islands and continue to be established. A recent example in Jersey is the US bank, Riggs & Co. Total bank deposits were at 30th September 2001, Jersey £129 bn and Guernsey £72 bn.

Investment Advice and Dealing with Mutual Funds

The Islands offer an offshore tax neutral base for the conduct of investment advice and transactions. The majority of banks and investment houses offer this service to international customers within the local regulatory and supervisory frameworks.

As at 30th September 2001 the value of funds under management in Jersey and Guernsey was £95 bn and £29 bn respectively.

Trust and Company Administration

The Islands have long been established centres for the establishment and administration of a wide range of offshore structures for both personal and corporate users. These activities are undertaken by banks, legal and accounting firms and by private trust companies and extend to employee share

schemes, bond and securitisation issues etc.

The Financial Services (Jersey) Law 1998 and the associated money laundering and proceeds of crime laws have emphasised the need for 'know your client' and sources of funds. In common with the matching United Kingdom legislation and practice, the Islands' judiciary have advised that they would expect any business conducted to be capable of fiscal disclosure.

Insurance

The Islands are an important centre for offshore insurance business, including reinsurance and captive insurance. The majority of this business is conducted in Guernsey.

Government Incentives

By concession, bank interest earned by foreign investors in the Islands is not subject to local income tax.

There are no grants available to foreign investors.

Sources of Finance

Sources of Finance are parallel to, and indeed include those found in the United Kingdom.

Foreign Exchange Control

There are no exchange controls applying to the movement of funds into or out of the Islands.

The Islands have no public debt through their strong infrastructure, economic position and prudent budgeting.

Employment Regulation

If a business wishes to import key personnel, it will need to obtain licences in the respective Island to do so.

Work and Residence Permits

European citizens in common with those of the United Kingdom are permitted to take up work in the Islands without the need to obtain permits. Residence is controlled through Housing Laws, which control ownership, rental and occupation of property and concerning which advice should be sought.

channel islands companies

Companies with limited liability may be incorporated in either Jersey, Guernsey or Alderney under the respective local law.

Incorporation of Companies in Jersey

The laws governing the incorporation of companies in Jersey now include, in addition to the Control of Borrowing legislation, The Companies (Jersey) Law 1991 and the subordinate legislation contained in subsequent regulations. The Memorandum of a Jersey company may now contain unlimited objects, which may be restricted or modified by the shareholders if they so wish. The Law now provides for a standard table of articles of association, which apply when not specifically replaced and excluded in a company's by-laws. The standard table is rarely employed without modification.

Where a company is to be incorporated in Jersey, the following details must be supplied:-

1. Three suggested names (in order of preference), with an indication as to the significance of each name, if there is any. A name which is similar to that of an existing company, which is too general, or which incorporates such names as "Royal", "Imperial" or "Corporation", will be excluded unless it can be shown that the circumstances can justify it. Other words which require justification would be "bank" or "trust" or "insurance".
2. The proposed address of the company's registered office in Jersey.
3. A short summary of the proposed activities of the company, including any specific objects clauses required where the objects are to be restricted, and a summary of the commercial reasons why it is wished to incorporate the company in Jersey.
4. A statement as to whether the company is to be public or a private company. A company will be a public company either if it so elects in its Memorandum of Association or if it is to have more than 30 shareholders. In the case of a public company, the present and past names of the directors, their address, nationality, occupation and date of birth must be provided.
5. The names, addresses and occupations of the proposed beneficial owners must be supplied to the registrar. This information is not available to public inspection, and the public register will not reveal it if nominee shareholders are used. The tax administration is advised of the names and addresses of the beneficial owners on the initial application where they are United Kingdom, Jersey or Guernsey resident.
6. The details of the amounts of the authorised and issued capital required, as well as any share premium and confirmation of the currency or currencies in which the shares are to be issued and

their nominal value. A Jersey company can choose one or several currencies, including the Euro, as the currency of all or parts of its share capital. Only two founders' shares need to be issued, which means that a Jersey company can function with an issued capital of twice the nominal value of one share.

7. The intended accounting date of the new company which may be chosen without restriction.

8. Confirmation of the tax status of the company: resident, exempt or, international business company.

9. Confirmation that none of the beneficial owners anywhere in the world has been declared bankrupt, been a director of or concerned in the management of a company that has been subject to an insolvent liquidation or the subject of a judicial enquiry.

10. The amount of the capital duty of 0.5% payable on the authorised share capital of the company (minimum amount of £50.00 giving an effective authorised capital of £10,000.00) and the registration duty on its Memorandum and Articles of Association of £120.00 are payable with the submission of the request for consent to issue shares. Note that it is possible to issue shares at a premium which is not subject to capital duty at a ratio of up to 1:999 or in certain circumstances 1:9999.

11. Where the company is to be a subsidiary of a public company, a copy of the latest accounts of the public company.

12. The request for consent to issue shares must be accompanied by:

- A statement with the information required under 1 to 3 above and the name of the person acting on behalf of the founder members;
- A copy of the Memorandum and Articles of Association of the proposed Company, each signed by the founder members;
- The formal request for consent to issue shares including the other information required at 3, 4, 5, 7, 8, 9 and, if necessary, 11; and
- payment of the amounts due at 10. above.

13. A reference from a lawyer or other professional adviser such as an accountant, or a banker will also be required.

Guernsey and Alderney Companies

Those who wish to incorporate a company in either Guernsey or Alderney should furnish all the information required for a Jersey company, together with the nationality and domicile of the beneficial owners.

There is no requirement in the Channel Islands that a company file accounts at its Companies Register with its annual returns, other than for a Jersey Public Company. With that exception, a company's accounts are therefore confidential.

Public companies are required to be audited by professionally qualified auditors; however, Jersey company law differs from that of Guernsey and Alderney in that it does not impose any obligation on a private company to appoint auditors. Under Jersey law, this decision is a matter for the

shareholders of a private company alone.

Company Dissolution

A Channel Islands company is dissolved when any of the following events occur:

1. By a Special Resolution of its Members.
2. By a decision of the administration for failure to comply with a requirement to file the annual return.
3. By a Court judgement.
4. At the end of the period of existence, if any, defined in its Memorandum.

In Jersey the Companies (Jersey) Law 1991 lays down the following procedures for the winding up of a Company:

1. A shareholders' voluntary winding up ("summary winding up"). This may only be carried out when the Company is solvent.
2. A creditors' winding up. This procedure has to be followed then the Company is insolvent. A summary winding up can be changed into a creditors' winding up if the liquidator discovers that the company is in fact insolvent.
3. A company is wound up at the expiration of the period defined for its duration, if any, in its memorandum of association. The shareholders are deemed to pass a special resolution on the defined day of expiration. The procedure for a shareholders' winding up is adopted if a notice is filed within 21 days and the company is solvent. Failing this, the procedure for a creditors' winding up is followed.
4. The Royal Court may also wind up a Company "on just and equitable grounds".
5. The Royal Court also has the power to wind up a Company on an application from the Finance & Economics Committee (of The States of Jersey) or from a minority shareholder on the basis that his interests have been unfairly prejudiced.

Accounting Standards

UK accounting standards are followed in the Islands.

channel islands trusts

There are many advantages in establishing a trust in the Channel Islands under the Laws of either Jersey or Guernsey. A Channel Islands' trust is a totally private arrangement between the settlor (the corporation or person who provides the initial assets) and the trustees (the persons who manage the trust and determine the distribution of the assets). A trust does not need to be registered in Jersey or Guernsey.

In general, a trust is exempt from tax if it can show that none of its beneficiaries is a taxable resident of the Island concerned and that the trust does not derive income from any source within the Island, part from bank deposit interest which is exempt by concession. A trust may, therefore, be established for persons resident outside the Islands and can accumulate income from a wide variety of sources tax free.

Discretionary Trusts

Are popular because of their flexibility. They may be created either by the settlor's signature or by the trustees' declaration. The latter method is sometimes convenient when the settlor (having provided the trust fund) is not available at the time the Deed is executed.

Beneficiaries need not be named in the trust instrument and the trustees may have a discretion as to who should be appointed from a class of beneficiaries at a given time. The trustees may be given unlimited discretion. If desired, the consent of a Protector appointed within the provision of the settlement may be required for the valid exercise of some or all of the trustees' powers.

Employee benefit trusts are a type of discretionary trust and trusts are frequently used with a mix of fixed provisions relating for example to a life interest, together with allowing the trustees discretion to react to prevailing corporate or family circumstances.

Charitable Trusts

A further form of discretionary trust is one which includes charitable provisions which may be combined with family provisions and which would not therefore easily achieve a no tax status if based onshore.

Fixed Trusts

May also be established where the provisions are known at the outset and would not be desired to be altered.

Purpose Trusts

Trusts may also be established to adhere a purpose rather than to pay benefits. The purpose might be e.g. to own a company remunerating overseas employees.

taxation

The Channel Islands have three quite separate administration systems for tax purposes namely Jersey, Guernsey (also administering Alderney, Herm and a number of smaller islands) and Sark. The standard rate of Income Tax is 20% (with the exception of Sark which has no income tax). The tax year is the same as the calendar year.

Jersey Income Tax

In Jersey, "persons" liable to Jersey Income Tax include individuals, companies and partnerships resident in Jersey deriving income from the Island, as well as trusts which are taxable if they are resident in Jersey. However, Jersey resident trustees are not subject to Jersey taxation on trust income if none of the beneficiaries of the trust is a Jersey resident taxpayer and if no income is derived from within the Island apart from bank deposit interest.

Individuals are treated as being resident in Jersey, for a particular year of assessment, if they are present in the Island for six months or more in a calendar year and have consistently (that is for successive years) been present for an average of three months, or more, each calendar year) or, if they maintain a place of residence in Jersey, which is available for their use, and they make any visits to the Island during the year.

Companies incorporated in Jersey are treated as resident and subject to income tax unless they apply for exempt status each year. Foreign incorporations may obtain exempt status, and be managed and controlled from the Island without thereby becoming subject to Jersey taxation on their world-wide income, or they may become an International Business Company, resident in Jersey but having favourable rates of tax which apply to their international activities.

Basis of Charge

Jersey Income Tax is charged on a schedule basis, similar to that in the UK. Persons who are resident and ordinarily resident in Jersey are taxable in respect of their overseas income, whether or not it is remitted to Jersey.

Non residents on the other hand, are only liable on income that arises or accrues from Jersey sources, except for bank deposit interest.

Individuals who are resident, but can satisfy the Comptroller of Income Tax that they are not ordinarily resident in the Island are not charged Jersey tax on their income that arises outside the Island and is not remitted to the Island. Any company or any partnership deemed to be resident in Jersey will be chargeable on the same basis as an individual to Jersey Income Tax upon its net income. The only capital taxes levied are probate and stamp duty. Probate duty is charged at the rate of one half of one percent on personal property and one percent on real property. Stamp duty of one half of one percent is levied on the nominal authorised share capital of companies. A company may reduce this by issuing shares at a premium. There are no inheritance or capital gains taxes.

A resident company will be chargeable to income tax on profits from "adventures in the nature of

trade". However, isolated capital gains from assets which have been held primarily for the purpose of earning income, are not normally taxable. The Comptroller of Income Tax publishes a complete list of extra statutory concessions.

Guernsey Income Tax

Guernsey income tax is levied at a rate of 20%. To determine whether or not a person is resident for tax purposes in the Island, the Guernsey Administrator applies rules similar to those applied by the Jersey Comptroller. Recently, the Guernsey Administrator and Jersey Comptroller have granted a number of concessions relating to the interpretation of the tax laws. For example, captive insurance companies and banks have been treated favourable in both Islands. As in Jersey, the Guernsey Administrator publishes a complete list of extra statutory concessions.

Exempt Companies In Jersey

1. All companies incorporated in Jersey are regarded as resident in Jersey for income tax purposes.
2. If a company meets certain conditions it can be treated as exempt from income tax.
3. Companies incorporated outside the Island which are resident in Jersey for income tax purposes by being managed and controlled in the Island may also apply for exempt status if they too can meet the required conditions.

In order to qualify for Exempt Status the following conditions must be met:

1. Application and payment of exempt company tax must be made within a specific period.
2. Jersey residents must have no interest in the company. Local trustees do not have a beneficial interest in shares held by them in that capacity and a Jersey resident may be a shareholder or debenture holder in a listed company that has a beneficial interest in an exempt company. (This condition does not apply to collective investment funds).
3. Ultimate beneficial ownership must be disclosed to the Comptroller of Income Tax.
4. The company must have no outstanding corporation tax, income tax, or exempt company tax liabilities.
5. If the company is an income tax company at the time of application, it must not have been an exempt company for any prior year of assessment.

Taxation of the International Business Company in Jersey

An International Business Company (IBC) pays Income Tax in Jersey at a rate of 30% on its net taxable profits arising from its activity in Jersey. This increase in rate was intended to keep the IBC outside the definition of certain Controlled Foreign Company and anti-treaty shopping legislation.

Contrary to the régime applicable to an ordinary resident company, its taxable income arising from international activities, i.e. outside the Island, is taxable at a rate which varies from 2.0% to 0.5% as described in the following table:

Jersey taxable activity : 30%

International activity: 2% £0-£3 million

1.5% £3-£4.5 million

1% £4.5-£10 million

0.5% over £10 million

Minimum annual tax: £1,200.00

(This is payable in advance and is due on the first application and on subsequent renewals).

These rates were not affected by the increase in the rate applicable to Jersey source income.

The minimum annual tax of £1,200.00, may be credited against the income tax assessment, but will not be repaid in the event that the actual amount of tax assessed for the year is less.

The income is taxed on actual basis, although assessments will normally be made by reference to the accounting period ending in the year of assessment.

There is no carry back or carry forward of losses incurred in the international activity available against profits in the same activity.

However, losses made in the Jersey activity will be available against taxable profits from the activity in the usual manner. Management charges and other forms of allowable expenditure may also be set against profits made in the Jersey activity.

The advantage of the IBC is that its Jersey source income may be kept to a minimum level and the international income at a significant level, thereby reducing the overall tax paid by the Company in Jersey to a minimal level.

Although there is no legal definition of what constitutes an International Activity for these purposes, this is dealt with on a pragmatic basis. The definition has been left deliberately flexible to take into account the needs of persons who will be using these vehicles. The following types of activity are specifically envisaged:

Inter-company financial activity;
Industrial and commercial activity; and
Overseas investment.

Captive insurance and reinsurance is one of the activities which falls within the scope of the definition, as do intra-group loans and finance. The concept is interpreted simply to indicate the difference between activities which are to be taxed in Jersey as having a source within the Island, and those which do not. The IBC is able to determine to a substantial extent which activities should be brought into charge to Jersey Income Tax at the full rate of 30% and those which will be considered to constitute part of its international activity provided that this remains reasonably consistent.

There are certain administrative obligations which have to be observed in order to continue to

benefit from the IBC régime. The most noteworthy is the requirement that no Jersey resident hold any interest in an IBC, which in itself is the reason for most of the administrative formalities.

Whilst the information given to the Comptroller does not include the beneficial ownership of the company, he will require annual certification that the beneficial ownership of the Company has not been modified since the last notification to the Financial Services Department.

When the Company concerned is a Jersey company, the application for IBC status is made on the basis of the information usually supplied to the Financial Services Department prior to incorporation. There will usually be some indication made at that point of the separation, if any, between the international and the Jersey activity and of their relative importance.

The Company making the application does not have to be a Jersey Company, it may be a permanent establishment of a foreign company, or a foreign company with no fixed place of business within the Island.

Double Taxation Agreements

Jersey and Guernsey have a double taxation agreement which provides relief by tax credit where the same income is taxable in both jurisdictions. Each island also has a treaty with the U.K. which provides the same full double tax credit on income other than dividends and debenture interest. To qualify for any tax treaty benefits, companies registered in the Islands must be subject to Jersey or Guernsey income tax and not be registered as exempt companies.

A tax agreement exists with France concerning air and sea transport which is limited to determining the territorial rights to taxation of both jurisdictions. The right to tax undertakings involved in such activities is reserved to the tax jurisdiction in which the head office of the undertaking is situated.

National Insurance and Social Security

The Islands operate salary deducted state social security systems, which support health and social services. The rates are no high by UK standards and there is a ceiling in both Islands. In Jersey, unemployment benefit is discretionary and in Guernsey, it is based on contributions made.

Indirect Taxes

In Jersey and Guernsey there is no gift tax, estate duty, turnover tax, VAT or wealth tax. Capital duty is payable at 0.5% on the nominal authorised capital of a limited company and there is stamp duty on the transfer of immovable property in the Islands.

issuing country

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