

November 2007

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JACK'S CORNER

The following question was posed by several GCSL professional intermediaries during my recent travels:

"Does GCSL have real offices in all those jurisdictions?"

The answer is below, but the reason for the question is far more interesting and worthy of comment.

These professional intermediaries work with GCSL and other service providers in different jurisdictions to setup companies, trusts and other structures for their clients. They recently visited several of these jurisdictions to conduct due diligence on the service providers with which they had been working. Despite representations that the service providers had "offices" in those jurisdictions, the professional intermediaries were disappointed to discover something less than that which they expected. Simply stated, they felt as though the service providers had misrepresented the claim of having an "office".

In most instances, the service provider had a license and rented a cubicle from and staff of another service provider in the jurisdiction. The service provider did not have an independent office with a secure filing system. The service provider did not have staff under contract, inclusive of confidentiality clauses. The senior person or for that matter even a representative of the service provider, in many instances, had never even visited the jurisdiction having relied upon the assistance of its sub-contractor. These "offices" are often called "brass plate" or "cubicle" arrangements.

Although these discoveries were slightly unsettling, the real issue was the professional intermediary's belief that the service provider had misrepresented the substance of its "office" in the relevant jurisdiction. One lawyer said "if I can't trust them to tell me the truth about their 'office', how can I trust them with my clients."

GCSL provides "brass plate" or "cubicle" arrangements to many service providers in most of our offices, and we do not necessarily disagree with this marketing strategy...as long as the service provider discloses the reality of the "office". We can appreciate the viewpoint of the lawyer who felt as though the service provider had misrepresented the situation.

For your information, when GCSL represents it has an "office", then it has secure filing systems in independent offices with staff contracted to GCSL. And, as readers of Jack's Corner know, I have visited all GCSL offices!!!

Let's tell the truth to our professional intermediaries so they can feel comfortable with the representations they make to their clients. One might have expected that to be a given...wouldn't one? Unfortunately, I know quite a few service providers who simply don't care ☹️

Onwards and upwards...and hopefully more honestly...



GCSL NEWS

GCSL HONG KONG STAFF TRIP TO BANGKOK

Jack, Marina and the Kids playing at The Oriental Hotel, Bangkok. Many thanks to the good people who donated prize money. Karen won 1st prize and is returning to The Oriental. Susan won 2nd prize and is going to Macau. Irene won 3rd prize and is off to Shenzhen. Cathy complained of the equities of the judges, but was happy that Jack came in last...and drank a lot of good wine 😊



ASIA OFFSHORE ASSOCIATION OFFERS FUN, INFORMATION, NETWORKING AND GREAT OPPORTUNITIES FOR SOME WONDERFUL KIDS IN HO CHI MINH CITY

We just returned from a few days in Ho Chi Minh City with nearly 100 professionals and their spouses enjoying some good fun, information, networking and a fantastic Halloween Trick or Treat Pool Party with a group of great kids from the Christina Noble Children's Foundation. Photos speak exceedingly loudly in this case. The kids won the day and a few of the photos are below. Let's hear it for Tao and Phoung...our Asia Offshore Association Ambassadors in Ho Chi Minh City...and the liliputians who joined the trick or treat extravaganza. Thanks to everyone who made this a most excellent event!!!



CENTER FOR FREEDOM & PROSPERITY STILL FIGHTING THE GOOD FIGHT

The good people at the Center for Freedom & Prosperity have been hard at work spreading the gospel of good government tax policy. The following video - Senators caught in the act - is worthy of a click:

www.youtube.com/watch?v=PZcwj61fIVg

AOA WWW SITE

The Asia Offshore Association is back online with a new look, new functionality, new Executive, Global Advisory and Wise Men Committees. The new Members Only section will be sure to please as it will include articles, country updates and more for our loyal members. Please visit www.asiaoffshore.org for a browse!!! And smile as you no doubt conclude that "Jack's secret weapon" (aka Marina) is the true brains and heart behind the AOA and its new WWW site.



TAX UPDATE

THE WORLDWIDE TAX POLICE SET UP SHOP IN LONDON

Unknown to many since 2004 Australia, the UK, the USA, Japan and Canada have joined forces to establish an international tax taskforce. The Joint International Tax Shelter Information Centre (JITSIC) taskforce which is based in Washington DC targets abusive tax schemes. The taskforce follows USA and UK activity to curb tax avoidance schemes. The USA has taken aggressive measures to stamp these out and the UK announced new disclosure rules to identify potential schemes.

JITSIC shares information between the revenue authorities from each country to identify abusive products, arrangements and those marketing them. As a result of this greater clarity, it should emerge in time as to exactly what is a so-called abusive scheme and what is merely taking advantage of inconsistent approaches by the tax administrations in different countries when interpreting the same transaction.

The objectives of the JITSIC are:

- To increase public awareness of the risks associated with abusive tax schemes;
- To recommend changes in tax administration practices for addressing abusive tax schemes;
- To enhance enforcement efforts through coordinated "real time" exchanges of tax information;

- To use Internet and other techniques to track and identify promoters/users of tax schemes;
- To identify emerging trends in anticipation of the evolution of abusive tax schemes; and
- To improve members' knowledge of techniques used to promote cross border abusive tax schemes.

On September 10, 2007, a second JITSIC office was opened in London. The London and Washington offices will operate as one JITSIC organization with several locations supported by the member countries such as Canada.

For example, in the summer of 2006, the exchange of information between the Canada Revenue Agency and the Internal Revenue Service of the USA led to the un-ravelling of an abusive cross-border tax scheme involving hundreds of taxpayers and tens of millions of dollars in improper deductions and unreported income. The number of information exchanges has been steadily increasing. While the confidentiality provisions of the Income Tax Act preclude the release of any taxpayer specific information, Canada has had some 280 exchanges of information with JITSIC countries, involving issues such as financial products, tax shelters and offshore trusts.

As collaboration between member countries continues to grow, more cross-border schemes will be uncovered, shared and addressed.

*Contributed by Cathy Odgers, Group Legal Counsel, GCSL Hong Kong.
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VIETNAM UPDATE

US\$500 MILLION CHINA INDUSTRIAL PARK IN DA NANG

The chairman of the Da Nang People's Committee announced the city of Shenzhen will develop a US\$500 million industrial park in the central Vietnam city. The industrial park will seek to attract businesses in information technology, electronics and pharmaceutical production.

*Contributed by Elie Sfeir, General Manager - Fiduciary Services, GCSL Hong Kong
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HONG KONG UPDATE

THE WORLD CITY PREFERRED AS REGIONAL HQ

Hong Kong remains a leading location for overseas firms managing their operations in Asia. Recent figures have shown that 60.4% of the 6,440 Hong Kong firms representing overseas parent companies are regional offices or headquarters. Several reasons for the choice of Hong Kong as a location for regional headquarters and local offices includes a low and simple tax system; free flow of information; absence of exchange controls; corruption-free government; good communication, transport and other infrastructure; free port status; geographical location; availability of business services and professional support services; rule of law and independent judiciary; and political stability and security. The USA topped the list of countries/territories with regional headquarters (298), followed by Japan (232) and the UK (124). The inflow of foreign direct investment into Hong Kong also soared more than 30% on a year earlier, to US\$27.1 billion for the first half of this year.

SALARIES TAX REDUCTION

The Chief Executive recently announced during his Policy Address to the Legislative Council a reduction in salaries tax to 15%. In addition, the Chief Executive stated if the economy remains robust and public finances sound, then the Government might consider further reductions.

*Contributed by Elie Sfeir, General Manager - Fiduciary Services, GCSL Hong Kong
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CHINA UPDATE

NASDAQ TO SET UP BEIJING REPRESENTATIVE OFFICE

Nasdaq has received approval from the Chinese government to set up a representative office (RO) in Beijing. The RO will be responsible for marketing campaigns in China and better communication channels with Chinese regulators. Currently, Nasdaq boasts 3100 listed companies, among which 49 are from China.

CHINA CUTS IMPORT TARIFF ON ELECTRONIC PRODUCTS

China's State Administration of taxation has announced a decrease on import tariffs on video and audio products as well as electronic publications from 17% to 13%, effective as of September 15, 2007.

EU AND CHINA REACH TEXTILE AGREEMENT

EU and China have agreed to jointly monitor Chinese textile and clothing imports into the EU in 2008 and at the same time the quota restrictions will be lifted. The "double checking system" will track the issuing of export licenses in China and importation into Europe. Thus the initiative is expected to enable European governments, manufacturers and traders to have a clearer picture of trade flow and to intervene as necessary.

SUBSIDIES OFFERED TO BOOST DOMESTIC CIVIL AVIATION

The General Administration of Civil Aviation will offer subsidies to small and medium size airports with annual passenger flow less than 5 million. Additionally, flights within a province will also get subsidies. Furthermore, the policy of airport construction levy collected from passengers will be extended through 2010.

BEIJING-SHANGHAI HI-SPEED RAILWAY

The feasibility study of the Beijing-Shanghai high-speed railway has been approved by the State Council. The project is expected to start by the end of this year and be operational by 2010. With this new link, the travel time between the two metropolises will be shortened from the current 10 hours to 5 hours.

*Contributed by Johnson Chien, General Manager - Fiduciary Services, GCSL Shanghai
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SINGAPORE UPDATE

KIASU - A SINGAPOREAN PHENOMENON?

"Kiasu". Ask any Singaporean, young or old, and he would be more than able to explain this word to you. It describes a state of mind, of attitude, of an approach to life itself. Like the French's "C'est la Vie", it is quintessential to the "Singaporeanness" of Singaporeans.

Pronounced "kee-ah soo", it is a Hokkien phrase describing the abject fear of losing - "everything must win!!" This translates down to even the most mundane of things - like the strategic placing of a cheap packet of tissues on a chair or table at a food court so that no one else could occupy it whilst one buys one's lunch.

But the Kiasu syndrome has also larger applications on life. The recent changes to the Republic's Central Provident Fund (CPF) were intended to help Singapore's ageing population to have enough for their retirement needs. This recent development and the ensuing discussions on the subject may have revealed how deep the kiasu syndrome has on the Singaporeans' outlook on life.

AXA Life Outlook Index recently carried out a survey measuring the Singaporean's outlook on career, family, health and retirement. About 2,400 people between the ages of 25 and 50 were polled in China, Hong Kong, India, Indonesia, Malaysia, the Philippines, Singapore and Thailand.

People in India, China and the Philippines were the most optimistic, while those in Singapore, Malaysia and Hong Kong did not share the same sentiment about their outlook on life over the next five years.

Compared with an overall Life Outlook Index of 71.6 (of 100) for the region, Singapore scored 59.2 - even though Singaporeans were found to prepare for retirement better than their Asian counterparts. In fact, 6 in 10 Singaporeans started planning for retirement at the age of 34 - compared to the regional average of 39.

Of 300 Singaporeans surveyed, 59 percent said they had started planning seriously for retirement, with 70 per cent having bought health insurance - the highest in the region. Yet, they feel they are one of the least prepared for old age.

Out of the four Life Outlook dimensions carried out in the survey, career held the greatest weight in terms of influence for Singaporeans, worrying about job security and their prospects for progression leading to greater financial rewards.

Notwithstanding a strong local economy, or rather, even in the face of such buoyancy, the Singaporeans are also worried about the rising cost of living and future opportunities - hence, their concerns about retirement and long-term financial security.

It is in the Singapore blood to be the best at everything, even worrying.

*Contributed by Lawrence Fong, Managing Director, GCSL Singapore
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OFFSHORE UPDATE

THE ANGUILLA PRIVATE TRUST COMPANY - AN IDEAL WEALTH MANAGEMENT STRUCTURE

Over the past few years, the Private Trust Company (PTC), has been gaining in popularity due to a number of reasons. These include the desire of high net-worth individuals to maintain greater control over the management of their assets settled on trust for themselves and or their families; and the desire to reduce the costs of operating a trust structure which, in some mature jurisdictions, are becoming prohibitive. Additionally, some high net-worth individuals are increasingly concerned that trustees may not be acting in their best interests where the trust structure is controlled by the same institution which gives the investment advice

and manages the assets of the fund.

A practical solution to this concern is for the settlor or family member to establish a separate legal entity, usually a company with limited liability, to act as trustee. The Anguilla PTC is ideally suited for this purpose. An Anguilla PTC is provided for by statute under the Trust Companies and Offshore Banking Act 2000 of the laws of Anguilla. Unlike in many other jurisdictions, the Anguilla PTC is a licensed trust company which is regulated by the Financial Services Commission and thus is afforded statutory protections under the Act. Besides being regulated, the Anguilla PTC has the following features and advantages:

1. It is easily established through the incorporation of a totally tax-free Anguilla domestic company where the use of corporate and or nominee shareholders and directors is allowed in order to maintain the opaque nature of the entity.
2. The settlor can be a shareholder and director of the company, as well as a beneficiary of a trust for which the company is the trustee.
3. The establishment of the structure is very reasonable; set-up government fees amount to USD1050 while annual government fees amount to USD306. Of course the registered office/agent fees are negotiable based on which registered office/agent establishes the entity.
4. The settlor is allowed to establish any number of trusts for him/herself and his family and simply has to indicate this in the application.
5. The paid-up capital requirement is not fixed in statute and thus can be discussed with the Commission thus allowing for flexibility in structuring the entity.
6. As a licensed trust company, the settlor gets the protections afforded to trustees under the Trusts Act which mandates that a trustee, if a company, must be hold a licence.
7. The actual management of the assets of the trust can be executed by the trust company thus removing the need to separate the independent trustee function from that of the investment management.

The Anguilla PTC balances the need for continuing influence, not control, over the management of the assets by the settlor and the legal soundness of the trust for which the company is trustee.

GCSL Anguilla is able to establish Anguilla PTCs for clients around the world, and especially in Asia where the development of a trust industry is nascent for a reasonable sum and with the speed and efficiency clients need. We are also able to advise on the trust deed to be used by the Anguilla PTC and other general business and legal matters pertaining to the concept and the trusts law of Anguilla.

*Contributed by Carlyle Rogers, Managing Director, GCSL Anguilla
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BELIZE: THE TRUST AGENT

This office remains to be fully explored, but it is an office which has been created by the recent amendment to the Trusts Act. §65E of the Trusts (Amendment) Act states that every international trust properly falling under the Laws of Belize **must** have a Trust Agent, who will be appointed by the Trustee of the trust. This Trust Agent will be able to accept service of any and all legal process for the trustee, protector and is supposed to ensure that the Trust is always in compliance with Belizean law.

What is of interest is the fact §65E(3) makes it abundantly clear that the person (natural or legal) who holds himself out as being able to act as a Trust Agent must have a valid and current licence to do trust business in Belize, such licence only issued by the International Financial Services Commission. Failure to obtain and maintain such a licence while holding oneself out as a Trust Agent will render one liable to the penalties which are outlined under the International Financial Services Commission Act. These fines are not a one-time payment, but have a cumulative effect, running for as long as the infraction persists.

What this effectively means is that the appointment of a Trust Agent allows for some address for service, possibly other than that of the Trustee. Arguably, though, the same entity that operates as the licensed Trustee Company will be acting as the Trust Agent. This is highly unlikely, and the creation of this office does not in any way weaken this rather strong protective arrangement called the International Trust.

It is just an effort to make sure the Commission has the trust arrangement regulated. I applaud their efforts, and believe we will all see more growth in the industry as more people realize that this is a legitimate Asset Protection jurisdiction.

*Contributed by Carlo Mason, Managing Director, GCSL Belize
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COOK ISLANDS: ON THE ROAD

GCSL Cook Islands was joined on a business trip in the USA by the respective Managing Directors of GCSL Belize and GCSL Nevis. What an interesting month long tour of Canada and the USA it was. Among the interesting places we visited were the beautiful cities of Vancouver, San Francisco and San Diego. Of the many times that I have visited San Francisco, this time around, I actually got to see the Golden Gate Bridge!

Then there was audacious Las Vegas, where our tropical climes trio was simply wide jawed at this testament to capitalism. Indulgence in every way imaginable is on display to cater for all tastes. We got to see the Blue Man show; surely a must when visiting Vegas. But I must say, the highlight for us in Vegas, was the (absolutely free) water display at Bellagios Casino. What an amazing show it is, and the guys from GCSL found themselves mesmerized by it. This poetic dance of water and music, compelled us to return time and again, and only goes to show that some of the best things in life are free.

We had the good fortune to meet up with the good folks at TrustMakers, with John Dietz doubling up as tour guide to this fluorescent city. You could not get a better tour guide. John knows every knoll and bump in Las Vegas! There is certainly something for everyone in Las Vegas - even if you don't gamble.

Of course we were in town to attend the serious business of asset protection and in particular to show our support for the inaugural conference of the Asset Protection Society. The 260+ delegates were treated to a very successful conference - my thanks to the organizers of this conference. I see big things on the horizon for Asset Protection Society, and GCSL will be major supporters.

An interesting message that got my attention was how the growing proliferation of domestic asset protection trusts has helped gain acceptance of the general concept of asset protection. How true this statement has now become apparent to me. For example, it never ceases to amaze me how many Trust and Estate Planners I meet still shun the idea of setting up structures that will ultimately help clients protect their assets from creditor attack. However, and without a doubt, our month long road tour has shown that there is a marked shift in the attitudes of practitioners and professional advisors, many venturing into the world of asset protection for the very first time. This is absolutely great news.

At GCSL, we see part of our role as continuing education, and will be happy to lead first timers through the process of setting up asset protection structures that fits best to their respective practices. Remember, there is no one size that fits all. There must be careful consideration of many factors, including the needs and tolerance levels of the client.

My prediction is that as asset protection moves into the mainstream of planning so too will the idea of going offshore. This process will only be amplified by the worsening US\$, where astute advisors will be compelled to go offshore for no reason other than the free falling US\$.

This is good news for offshore jurisdictions such as the Cook Islands which has been preaching the virtues of offshore planning, and in particular asset protection trusts, for over twenty years. A movement into the mainstream thought pattern would bring a timely erosion of the stigma that traditionally has attached to the very idea of asset protection as an integral part of an estate planning. A movement that is well overdue in my opinion.

*Contributed by Puai Wichman, Managing Director, GCSL Cook Islands
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SAMOA: LLCs - THE PREFERRED BUSINESS VEHICLE IN THE USA

Our managing Director, Puai Wichman has just returned from a month long tour of the USA, and believes that Samoa has much to offer in the way of its LLC legislation.

There are some interesting features of the Samoa international company legislation, which has been covered in previous articles. This includes that a company can be registered on a long-term basis, i.e. for periods of 5, 10, or 20 years. Upon expiry, registration can be renewed on an annual basis or for further long-term periods. Long-term companies benefit from substantially discounted Government registration fees and avoid the necessity of annual renewals.

Another popular aspect of an international company is that it may be incorporated in any language including its name and memorandum and articles. Chinese characters are a common feature of Samoa companies.

Then of course there is the ability to set up an LLC in Samoa, the law being based on the US Wyoming legislation and allows a Samoa LLC to be interpreted by the United States IRS as a transparent entity for income tax purposes. Thus making it a very popular vehicle for business in the USA - with Samoa as one of the earliest jurisdictions to adopt this type of legislation.

The same formation procedures are followed as for a Samoa international company with some slight modifications, namely that an LLC does not have shareholders, rather members subscribe for "membership interests" and in place of directors, there are appointed managers, who can either be one of the members or a non member altogether. The unique feature of an LLC is that its assets are immune to any attack. Rather, the best that a creditor may have against an LLC, it to attach a lien to the membership interests of the LLC. This unique feature of an LLC makes it a very effective asset protection measure in the USA. Many individuals in the USA conduct all their business dealings via an LLC, due to its flexible rules as well as a means of gaining protection against creditor action. Of course, all tax liability passes directly to the members of the LLC.

Here at GCSL the use of an LLC is seen as an integral part of any estate or asset protection plan. In fact, we always recommend that an LLC is incorporated as part of a trust structure. We have the ability to set up a trust from a number of jurisdictions including Belize, Nevis and of course the Cook Islands. Likewise, we can set up LLC's from a number of jurisdictions including Anguilla, Nevis and Samoa. The Cook Islands is shortly to join the list of jurisdictions that can offer LLC's.

And wouldn't you know it, we are running an all inclusive package out of Samoa and the Cook Islands, where we can set up a Cook Islands Trust, a Samoa LLC and a bank account with online internet facilities, all at an unbeatable price!!!

For more information contact our Managing Director in Samoa and the Cook Islands, Puai Wichman. Talk to the experts!!!

*Contributed by Laura Fepuleai, Manager, GCSL Samoa
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**TIDBITS**

The things that make us smile, frown and generally make life interesting...

OUR MONTHLY QUOTE THAT MADE US SMILE

"No problem, I have a Gulfstream." Denny Crane of the famous TV drama *Boston Legal* commenting to an associate when she told him that he could not join her on a trip to New Orleans because she only had two tickets.

A ROSE BY ANY OTHER NAME IS STILL, WELL, VIAGRA

A Dutch town recently decided to rename a new street that was to have been called St. Fiacrius court after people started calling it Viagra court. We don't speak Dutch, but we still wonder how "Fiacrius" sounds like "Viagra". Anyone out there have any idea how to pronounce "Fiacrius"? In any event, why would they want to change the name? Sounds like a clever marketing ploy for retirees!!!

LET'S HEAR IT FOR THE GIRLS

We recently read about a group of working ladies who sewed together their lips as part of a hunger strike to force the mayor to re-open brothels and bars in a Bolivian city. Prostitution is legal, but the mayor had grown tired of the associated under-aged drinking and crime. Close a brothel, end under-aged drinking and crime!? Let's hear it for the girls...re-open the brothels and bars..oh, by the way fellas, that city is El Alto...no direct flights, but we understand you can get there 😊

OOPS, WRONG NUMBER

We write in complete amazement about the drunk Austrian motorist who called a police emergency number rather than his breakdown service when his car broke down. Oops, wrong number, but that's OkeyDokey. No problem as he does not need the car any longer as the police terminated his license.

NOT TOTALLY SATISFIED WITH A FIRST DAY INCREASE OF 87%...WELCOME TO CHINA

Yes, you read correctly. China Shenhua Energy Co debut on the Shanghai Stock Exchange saw the price close up 87%, which elicited the following response from the company's chairman:

"The stock price was within expectations, but I'm not totally satisfied."

Now, there is a debutante with an attitude!!!!

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