

TURKS & CAICOS ISLANDS



MERITAS[®]
LAW FIRMS WORLDWIDE

DOING BUSINESS IN LATIN AMERICA AND THE CARIBBEAN





MERITAS[®]
LAW FIRMS WORLDWIDE

DOING BUSINESS IN LATIN AMERICA AND THE CARIBBEAN

PREPARED BY MERITAS LAWYERS
IN LATIN AMERICA AND THE CARIBBEAN



Published by Meritas, Inc. • 800 Hennepin Avenue, Suite 600
Minneapolis, Minnesota 55403 USA

+1.612.339.8680 | +1.612.337.5783 FAX | WWW.MERITAS.ORG

© Copyright 2012, Meritas, Inc. All rights reserved.

DOING BUSINESS IN LATIN AMERICA AND THE CARIBBEAN

This publication has been prepared by the lawyers of Meritas firms to provide an overview to foreign investors and business people who have an interest in conducting business in Latin America and the Caribbean. The material in this publication is intended to provide general information only and not legal advice. This information should not be acted upon without prior consultation with legal advisors familiar with the specifics of your particular matter.

Meritas firms offer clients the ability to access high quality legal service throughout Latin America and worldwide. With 6,900 experienced lawyers in 177 full-service law firms serving 236 markets, Meritas gives your company access to local counsel around the world.

Meritas firms

- Offer high quality, worldwide legal services through a closely integrated group of full-service law firms
- Are subject to rigorous selection criteria and continuous monitoring for quality of service through regular assessments and recertifications.
- Provide global reach and access to local knowledge at market rates
- Offer coordinated service across jurisdictions
- Can be found on www.meritas.org which enables direct access to firms through a searchable database of attorney skills and experience plus links to contacts at each Meritas firm

The following currency notations are used in this book.

ARS	Argentinean Peso	DOP	Dominican Republic Peso
BSD	Bahamian Dollar	GTQ	Guatemalan Quetzal
BRR	Brazilian Cruzeiro Real	HNL	Honduran Lempira
KYD	Cayman Dollar	MXN	Mexican New Peso
COP	Colombian Peso	NIO	Nicaraguan Córdoba
CRC	Costa Rican Colón	PYG	Paraguayan Guarani
USD	United States Dollar	UYU	Uruguayan Peso

Please be aware that the information on legal, tax and other matters contained in this booklet is merely descriptive and therefore not exhaustive. As a result of changes in legislation and regulations as well as new interpretations of those currently existing, the situations as described in this publication are subject to change. Meritas cannot, and does not, guarantee the accuracy or the completeness of information given, nor the application and execution of laws as stated.



The Turks and Caicos Islands (TCI) lie 575 miles southeast of Miami and 39 miles southeast of The Bahamas. There are eight principal inhabited islands which have an estimated population of 35,000. The legal system is based upon English common law with local modifications, and the islands are governed by a Cabinet of locally elected ministers, presided over by a British-appointed Governor. To the extent that TCI statutory law does not apply or requires interpretation, the common law of England applies. The local currency is the U.S. dollar.

FOREIGN INVESTMENT

Foreign investment is heavily promoted. International firms and investors are encouraged to invest mainly in the areas of tourism and finance. Certain incentives such as customs duty exemptions are, in practice, made available for developments that are determined to be beneficial to TCI.

MAIN RIGHTS

There are no exchange controls and funds may be moved freely in and out of the jurisdiction.

A statutory body called The Financial Services Commission has been established with a view to licensing and supervision of various business and financial areas of interest including: Superintendent of Banks, Superintendent of Trusts, and Superintendent of Insurance.

ACQUISITION OF LAND BY FOREIGNERS

There is no restriction as to ownership or sale of land, which by far represents the most active market in TCI.

COMPANIES RECEIVING THE INVESTMENT

Receipt of foreign investment by TCI companies is not regulated. Exempted companies (the TCI version of an IBC) cannot acquire or hold land.

RESIDENCY REQUIREMENTS

Not required of foreign investors.

ENVIRONMENTAL REGULATIONS

At the present time no environmental legislation exists in TCI. An environmental impact study of land which is to be the subject of development is often required of large scale real estate developers prior to the grant of development permission.

BUSINESS ENTITIES

The incorporation and regulation of companies in TCI is governed by the Companies Ordinance 1981 (last amended in 2011) and by English common law. The Companies Ordinance recognizes four main forms of company: the ordinary company, the exempted company, the limited life company, and the foreign company.

Directors

All companies are required to have at least one director and one secretary, neither of whom need to be resident in TCI. A sole director of the company may also serve as the secretary. One narrow exception to this rule involves the Limited Life Company, whose articles can provide for management by the members or by a designated manager. Other officers for TCI companies may be established by way of the company's articles of association.

Registered Office

All companies are required to have a registered office in TCI.

Accounts and Records

All companies in TCI are required to keep proper books of accounts which give a true and fair view of the company's affairs and explain its transactions.

Minimum Capital Stock

There is no minimum capital requirement for companies in TCI; however, a company which is required to be licensed under the Banking Ordinance 1979, the Insurance Ordinance 1989, or the Trustees Licensing Ordinance 1992 will be obliged to have capital appropriate to the business it intends to carry on.

Number of Shareholders

One shareholder is sufficient, and shares may be held by nominees or trustees, if desired.

Annual General Meeting

Save for the first general meeting which is to be held within 15 months of the date of incorporation, a general meeting is required once per year. There is no statutory requirement to hold the meeting in TCI.

Formal Requirements

The requirement for original registration for TCI companies (thus excluding Foreign Companies) involves the filing at the Companies Registry of a Memorandum of Association and Articles of Association, both executed by a person agreeing to take at least one share or otherwise to become a member.

TRUSTS

As a common law British overseas territory in which the concept of the trust has long been accepted, TCI offers a highly favorable situs for trusts. The Law of Trusts in TCI is governed by the Trusts Ordinance of 1990. This provides statutory regulation of trusts in the islands. The Ordinance is comparable to the present trust legislation in the Channel Islands and the Cayman Islands and is generally regarded as a benchmark for off-shore trust legislation. It provides a safe jurisdiction for the assets of business persons and investors alike. The freedom afforded by the absence of tax treaties and exchange controls and the privacy ensured by the nonregistration of trust documents is restrained by a strict licensing regime under which the activities of those who hold themselves out as professional trustees are regulated.

The Ordinance is not intended to be an exhaustive code and the English principles and applicable case law continue to apply insofar as they are not overridden or varied by the statutory provisions. The Ordinance was enacted in TCI to cater to modern demands and includes features from other jurisdictions and some original provisions resulting from recommendations by respected English counsel.

It is to be noted that the Courts of the Turks and Caicos Islands have jurisdiction where the trust is a Turks & Caicos Trust; the trustee resides in the islands, the trust property is situated in the island, or the administration of the trust is found within the island jurisdiction.

Some of the main features of a TCI Trust are as follows:

Severable Aspects

The validity of the trust, the interpretation of its terms and the administration of the trust property are each regarded as severable aspects. The trust instrument may also provide for the law applying to each aspect to be changed from time to time.

Exclusion of Foreign Law

The Ordinance contains provisions excluding the applicability of foreign law to the creation of a TCI Trust and to dispositions made under it. For example, in the absence of an express term to the contrary, the laws of the settlor's home jurisdiction have no application to the question of whether the trust or any disposition of property of the trust is valid or enforceable.

Rule Against Perpetuities

This does not apply to a TCI trust. The trust instrument may specify the duration of the trust.

Concept of the Protector is Given Statutory Recognition

It is common, particularly in discretionary trusts where it is for the trustee to decide who is to benefit under the trust and when, to require the trustee to obtain the consent of a named party before exercising his powers.

Protective Trusts

The trust instrument may provide that the interest of a beneficiary is liable to be diminished or terminated or subject to a restriction on alienation (a protective trust).

Trustee to Act Fairly as Between Beneficiaries, Not Necessarily Evenhandedly

Trustees can be given wide discretion in relation to the various interests of beneficiaries and wide powers of accumulation and advancement. The overriding consideration is that they act fairly between one beneficiary and another.

Privacy

The Ordinance provides that a trustee is not required to disclose to any person any document showing he has exercised a power or discretion or performed a duty, nor to disclose to any person other than a beneficiary any document relating to or forming part of the accounts of the trust, unless required to do so by the terms of the trust or by an order of the court.

Supervision

All professional trustees in TCI must be licensed by The Financial Services Commission via the Superintendent of Trustees.

Benefits of a TCI Trust

Trusts can be used for tax-planning purposes. There are several different sets of circumstances under which persons might wish to dispose of their property during their lifetime. For example, in countries where taxes are levied upon a person's estate upon their death, it is prudent to mitigate the incidence of taxation by reducing the size of estate before death. Similarly, where the property is income-producing, disposing of the property may reduce the settlor's income tax liability. Settlers can minimize their tax liabilities through the use of TCI trusts particularly if they intend to move from one country to another. Where TCI is the situs of the trust, it may be possible to avoid tax on capital gains in the settlor's domicile in addition to any income tax which would otherwise be payable.

Where settlors reside in a country which does not recognize the trust concept and has laws which can override their will, they may, by the use of a TCI trust,

be able to prevent their property passing to members of their family who they wish to exclude.

Since the trust is a separate legal entity created when the settlor transfers assets by deed to a trustee for the benefit of named beneficiaries, the need for probate or letters of administration on the death of the settlor is eliminated.

Individuals, for any number of good reasons, may wish to keep their affairs private, for example, regarding asset ownership; this is effectively achieved by creating a TCI trust. Settlers can isolate property in an offshore trust and thereby minimize risk associated with economic and political instability.

TAXATION

There is no direct form of taxation in TCI – no income tax, company tax, withholding tax, capital gains or other tax on income, profits or assets. TCI does not tax foreign income and has no exchange control. The main sources of government revenue are customs duty and stamp duty, the bulk of the latter coming from real estate transactions.

Value Added Tax (VAT) on goods and services is set to be introduced on 1 April 2013.

STAMP DUTY

At the present time, the rate of stamp duty for a land transaction on the island of Providenciales ranges from 3.6% where consideration exceeds USD25,000 but does not exceed USD500,000 up to 9% where consideration exceeds USD3 million.

Stamp duty is also payable upon registration of security documents – 1% of the amount borrowed, 0.2% on share transfers – based on consideration passing, and 8% on the transfer of shares in a landholding company.

TREATIES/INTERNATIONAL TRADE AGREEMENTS

On 8 March 2002 the TCI entered into formal written commitment to the Organization for Economic Cooperation and Development's (OECD) principles of transparency and information exchange. In furtherance of this, at the end of 2009 the TCI government entered into a tax information exchange agreement with the Republic of Ireland, called the Ireland Agreement.

The Ireland Agreement was in turn incorporated as a schedule to the Tax Information Exchange Ordinance 2009 which deals with the exchange of information relating to taxes and for connected purposes. The Ordinance provides that where the TCI government becomes a party to tax information

exchange agreement similar to the Ireland Agreement, the Governor may prescribe that the terms of the Ordinance shall apply to the said Agreement, with such specified modifications as may be specified in the Order.

The functions and powers under the Ordinance are to be exercised by a person described as a “Competent Authority” who is appointed by the Permanent Secretary of Finance. When making an information request, the Competent Authority can require a person to provide such information as is requested in their notice provided that: (a) the person is reasonably believed to have the said information and (b) provided that the information is held by a bank, financial institution, person acting in an agency or fiduciary capacity such as a nominee or trustee or the information relates to beneficial ownership of a company, partnership or other person. Penalties for noncompliance could include a fine up to USD10,000 or imprisonment for a term not exceeding two years, or both.

Between July 2009 and 30 June 2010 the TCI has entered into tax information exchange agreements with the following countries: Ireland, Netherlands, United Kingdom, Denmark, France, Sweden, Norway, Iceland, Greenland, Finland, Faroe Islands, Australia, New Zealand, Germany and Canada.

LABOR LAW

The Employment Ordinance regulates the terms of employment in TCI.

MINIMUM WAGE

The minimum wage in TCI is USD5 per hour.

HIRING OF EMPLOYEES; LABOR CONTRACTS

Within four weeks of commencement of employment an employer must provide a written statement to the employee which contains specific employment terms relating to dates, remuneration, terms and conditions relating to work hours, holidays, sick time and other terms which are listed in the Employment Ordinance.

BENEFITS AND LABOR RIGHTS

Where an employer requires an employee to work overtime and the employee agrees to do so, the wage rate for the period worked overtime is double time on any public holiday, and at any other time where the employee works in excess of his normal working hours in any week, one-and-a-half times the basic wage.

HIRING OF FOREIGN EMPLOYEES

Hiring of foreign employees can only be effected by first obtaining a work permit authorizing the employment of that individual. The work permit can be limited in duration, may have attached conditions or restrictions, and can be revoked by the Immigration Board for a variety of reasons including public interest. Preference is given to the local labor force and every business requires a Business License under the Business Licensing Ordinance. There are a number of categories in the Business Licensing Regulations reserved for businesses controlled by local nationals.

TAXES AFFECTING SALARIES

There are no taxes affecting salaries. There is a national insurance system that provides payments in respect of retirement, incapacity, maternity, employment injury and old age. The amount of contribution payable in respect of an employed person other than public officer is 8% of one's earnings for that week (subject to a maximum contribution), of which 4.6% is payable by the employer and the remaining 3.4% is payable by the employee.

There is also a National Health Insurance scheme; contributions are 3% of the employee's salary payable each by the employer and the employee (subject to a maximum).

TERMINATION OF EMPLOYEES; SEVERANCE BENEFITS

Severance is payable only where an employee who has been continuously employed for at least two years by the same or associated employer is dismissed by reason of redundancy; or is laid off or kept on short-time for eight or more consecutive weeks and complies with requirements as to giving notice of intention to claim severance. Severance is paid at a rate of two-weeks' pay for each year of service and pro rata for each incomplete year.

A minimum period of notice of termination of employment is required for all employees. The minimum notice period ranges from one working day to two months depending on the employee's length of employment.

ARGENTINA

Negri, Busso & Fariña

Godoy Cruz 3236
Buenos Aires C1425FQV

Federico Busso
federico_busso@negri.com.ar
Tel: +54 11 5556 8000
www.negri.com.ar

THE BAHAMAS

Chancellors Chambers

Samana Hill, 14 Village Rd N
Nassau N-4589

Merrit Storr
mstorr@ccsbahamas.com
Tel: +1 242 394 1823
www.ccsbahamas.com

BOLIVIA

Mostajo Sociedad Civil

Edificio Hilda, 12th Flr
Av. 6 de Agosto
La Paz

Denise Mostajo
denise@mostajo.com
Tel: +591 2 244 3856
www.mostajo.com

Mostajo Sociedad Civil

Av. Cristobal de Mendoza No. 246
segundo anillo ed. La Casona
2nd Floor, #204

Santa Cruz
Sergio Mostajo
lawfirm@mostajo.com
Tel: +591 778 31499
www.mostajo.com

BRAZIL

Felsberg e Associados

Avenida Paulista 1294, 2nd Floor
São Paulo, SP 01310-915

Thomas Felsberg
thomasfelsberg@felsberg.com.br
Tel: +55 11 3141 9100
www.felsberg.com.br

Felsberg e Associados

Av. Almirante Barroso
52 - 22nd Flr - Grupo 2202
Rio de Janeiro 20031-000

David Meiler
davidmeiler@felsberg.com.br
Tel: +55 21 2156 7500
www.felsberg.com.br

Felsberg e Associados

SCN, Quadra 05-Bloco A-Sala 1217
Torre Norte
Brasília 70715-900

Nayara Cunha
nayaracunha@felsberg.com.br
Tel: +55 61 3033 3390
www.felsberg.com.br

CAYMAN ISLANDS

Campbells

Willow House, Cricket Square
PO Box 884
Grand Cayman KY1-1103

Shaun McCann
smccann@campbells.com.ky
Tel: +1 345 949 2648
www.campbells.com.ky

CHILE

Philippi, Yrarrazaval, Pulido & Brunner LTDA.

El Golf 40, Piso 20
Comuna de Las Condes
Santiago 7550107

Alberto Pulido Astoreca
apulidoa@philippi.cl
Tel: +56 2 2364 3700
www.philippi.cl

COLOMBIA

Posse, Herrera & Ruiz S.A.

Carrera 7 No. 71-52
Torre A Piso 5
Bogotá

José Alejandro Torres
josealejandro.torres@phrlegal.com
Tel: +571 325 73 00
www.phrlegal.com

COSTA RICA

BLP Abogados

Via Lindora Business Center, 4th
Flr Radial Santa Ana-San
Antonio de Belén, Km 3
San José

Rafael Manzanares
rmanzanares@blpabogados.com
Tel: +506 2205 3939
www.blpabogados.com

DOMINICAN REPUBLIC

Russin, Vecchi & Heredia Bonetti

Edificio Monte Mirador, 3rd Floor
Calle El Recodo #2
Ensanche Bella Vista
Santo Domingo DN

Georges Santoni Recio
gsantoni@rvhb.com
Tel: +1 809 535 9511 Ext. 272
www.rvhb.com

ECUADOR

Romero Arteta Ponce Abogados

Av 12 de Octubre No 26-97 y A.
Lincoln
Edificio Torre 1492, 8th Floor
Quito

Diego Romero
dromero@law.com.ec
Tel: +593 2 2986 666
www.ecuadorianlawyer.com

EL SALVADOR

Espino Nieto & Asociados

83 Avenida Norte No. 138
Colonia Escalon
San Salvador

Luis M. Espino
luism@espinolaw.com
Tel: +503 2263 7522
www.espinolaw.com

GUATEMALA

Marroquín, Pérez & Asociados, Sociedad Civil

3a. Avenida, 12-38, Zona 10
Edificio Paseo Plaza Business
Center, Of. 1002
Guatemala City 01010

María M. Marroquín
mpemueller@mra-legal.com
Tel: +502 2321 1212
www.mra-legal.com

HONDURAS

Casco-Fortín, Cruz & Asociados

Bldv. San Juan Bosco, contiguo a
Citi Bank (principal)
Edificio Torre Alianza, Suites 701-702
Tegucigalpa

Vanessa Velasquez
vanessav@cascolaw.com
Tel: +504 2271 0073
www.cascolaw.com

MEXICO

Cuesta Campos y Asociados, s.c.

Bismark 192 Planta Baja
Col. Vallarta Norte
Guadalajara, Jalisco 44690
Fernando J. Cuesta
fcuesta@cuestacampos.com
Tel: +52 33 3630 0580
www.cuестacampos.com

Cuesta Campos y Asociados, s.c.

Montes Urales #723, Int 402, 4th Flr
Lomas de Chapultepec
Mexico City, D.F. 11000
Hugo G. Cuesta Leaña
hcuesta@cuestacampos.com
Tel: +52 55 5540 1737
www.cuестacampos.com

NICARAGUA

Núñez, Rizo, Zambrana Abogados

Edificio CAR, 3rd Floor, Suite M-7
Managua
Ernesto Rizo Pallais
erizo@nrzlaw.com
Tel: +505 2270 7353
www.nrzlaw.com

PANAMA

Alemán, Cordero, Galindo & Lee

PO Box 0819-09132
2nd Flr, MMG Tower, E 53rd Street
Panama City
Jaime Alemán
jaleman@alcogal.com
Tel: +1 507 269 2620
www.alcogal.com

PARAGUAY

Peroni Sosa Tellechea Burt & Narvaja

Eulogio Estigarribia 4846
Esquina Monseñor Bogarin
Asunción, 1892
Francisco Peroni Clifton
pstbn@pstbn.com.py
Tel: +595 21 663536
www.pstbn.com.py

PERU

García Sayán Abogados

Avenida Reducto 1310 Miraflores
Lima 18
Luis Gastañeta
lgastaneta@garciasayan.com.pe
Tel: +51 1 615 0202
www.garciasayan.com.pe

PUERTO RICO

Fiddler González & Rodríguez, P.S.C.

254 Muñoz Rivera Avenue, 6th Flr
PO Box 363507
San Juan 00918
José A. Acosta Grubb
jacosta@fgrlaw.com
Tel: +1 787 753 3113
www.fgrlaw.com

TURKS & CAICOS ISLANDS

Miller Simons O'Sullivan

PO Box 260, Butterfield Square
Providenciales
Neil Coles
NRC@msslaw.tc
Tel: +1 649 946 4650
www.msslaw.tc

URUGUAY

Posadas, Posadas & Vecino

Juncal 1305 - 21st Flr
Montevideo

Juan Carlos Oreggia Carrau
joreggia@ppv.com.uy
Tel: +598 2 916 2202
www.ppv.com.uy



800 Hennepin Avenue, Suite 600
Minneapolis, Minnesota 55403 USA
+1.612.339.8680 www.meritas.org

Prepared by Meritas Law Firms

Meritas is an established alliance of 170 full-service law firms serving over 235 markets – all rigorously qualified, independent and collaborative. Connect with a Meritas law firm and benefit from local insight, local rates and world-class client service.

www.meritas.org enables direct access to Meritas law firms through a searchable database of lawyer skills and experience.

