

# Doing Business in Guernsey

2008



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# 1. Introduction

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in over 70 countries throughout the world. Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in the Guernsey has been provided by the office of UHY representatives:

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Louvre Group Limited has been established since 1976 and specialises in offshore fiduciary, accounting services and fund establishment and administration. We have associate offices located in Cayman Islands, Dubai, Geneva, Hong Kong and United Kingdom. For more information visit our website at [www.louvregroup.com](http://www.louvregroup.com).

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at December 2008.

We look forward to helping you do business in Guernsey.

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## 2. Business environment

A history of political stability lasting almost a millennium, the absence of exchange restrictions, an established infrastructure to meet the demands of the international finance community and an appropriate regulatory framework have made Guernsey a major International Offshore Finance Centre.

Guernsey is situated off the northwest coast of France in the Gulf of St Malo, and is approximately 130km (80 miles) from the south coast of England. It is the largest island in the Bailiwick of Guernsey, which consists of the Islands of Guernsey, Alderney, Sark and Herm together with a number of smaller islets. It has an area of 63 sq km (24 sq miles) and its capital is St Peter Port, the main financial and business centre.

Guernsey has a population of approximately 60,000. Despite the close geographical proximity to France, the way of life in Guernsey is almost entirely English, and English is the official language, both spoken and in business.

### History

The Bailiwick first became related to the English Crown when Duke William of Normandy, to whom Guernsey and Jersey belonged, became King of England in 1066. In 1204 King John lost control of Normandy and the Islands chose to give their allegiance to the English Sovereign who continued to govern the Islands in his capacity as Duke of Normandy. In order to retain their loyalty, John granted the Islands the rights and privileges that they had enjoyed under the previous Dukes of Normandy.

In 1239 Henry III surrendered the title of Duke of Normandy over all former Norman territories except the Channel Islands where the English Sovereign retains that title even today. Finally, in 1254, Henry III formally annexed the Channel Islands to the Crown of England forever. Successive Sovereigns have confirmed the status of the Islands in Royal Charters, which established self-government, a separate judicial system and other privileges.

In short, the Islands have benefited for more than 900 years from constitutional continuity and stability.

### Government and political system

Guernsey is governed by its own legislative assembly, the States of Deliberation (the States), to which members are elected by direct universal suffrage. No political parties are represented in the States, and the

administration of government is carried out through a number of departments, each of which is responsible for a particular service or function. Reflecting the constitutional position, laws passed locally depend for their validity upon ratification by the Queen in Council.

The United Kingdom Government is, however, responsible for the foreign relations and the external defence of the Island. Whilst UK laws do not apply to the Island it has been found convenient to extend some legislation, such as aerial navigation and merchant shipping Acts, to the Island.

The Convention on the Organisation for Economic Co-operation and Development applies to Guernsey.

## **Relationship with the European Union (EU)**

The Channel Islands have a special relationship with the UK which affects their relationship with the European Union. The Accession Treaty for the UK contained a special Protocol covering the Islands and other Crown Dependencies. This Protocol requires that there shall be free movement of industrial and agricultural goods between the territories and the Union, and that goods imported from outside the Community be subject to the same Common Customs Tariff and agricultural levies as would apply if imported into the UK. The fiscal independence of the islands is accepted and, apart from ensuring the proper functioning of free trade, they are excluded from the provisions of the Treaty.

The Islands thus in general do not benefit from, for example, agricultural subsidies, but equally they are not bound by the majority of EU legislation, including specifically legislation relating to taxation or financial services.

## **Legal environment**

The roots of Guernsey Law lie in Norman (French) customary law, which has evolved over the centuries. In recent years, the law has become more statute-based which has brought in a number of concepts and precedents from the UK statute and common law.

The local legal profession consists of Advocates, who have qualified firstly in the UK and then in Guernsey. Only Advocates may represent clients in court. The Island has its own judicature. In civil matters a case would first be heard by the Royal Court of Guernsey sitting as an Ordinary Court; appeal from this would be to the Court of Appeal of the Channel Islands and thereafter to the Privy Council.

## The economy

The policy of the Island Government is to develop Guernsey as a financial and commercial centre of high repute. The responsibility for implementing this policy has been delegated to the Policy Council, which is especially interested in maintaining a balance between the principal sectors of the economy, although at present the financial sector predominates.

## Currency

The monetary unit used in Guernsey is the Pound Sterling. The States of Guernsey issue their own notes and coinage for domestic usage. UK notes and coins are also legal tender.

In general the government believes that the low rate of taxation and the allowances for capital expenditure are sufficient to promote the Island's industry.

## Tax system

At a glance:

Corporate income Tax Rate (%)*	0
Capital Gains Tax Rate (%)	0
Income Tax Rate (%)	20
Withholding Tax on bank deposit interest (%)	20
(see note ** below re applicability)	
Withholding tax on Dividends (%)	0
Net Operating Losses (Years)	1
Carryback/Carryforward	Unlimited

Income tax is payable only by individuals and not in general assessed on corporations\*. There are no capital taxes and no value added tax or similar. Local residents are taxed on the distributions, including deemed distributions, they receive from Guernsey companies.

With the ability to obtain a ruling from the Income Tax Office to ensure the application of the Law, international investors can establish companies with total certainty as to their exposure to local taxation.

\* Under the new corporation tax regime introduced in 2008, only certain regulated corporations, including licensed banks, pay income tax at higher rates. Collective investment schemes may still elect to be treated as tax exempt.

\*\* In accordance with the EU Savings Tax directive with effect from 1 July 2008, 20% tax will be deducted from interest payments made to an individual beneficial owner resident in an EU member state.

## **Financial reporting and audit requirements**

There are no statutory requirements as to the disclosure to be made in the financial statements of a Guernsey company. Normal practice would be to follow the form of UK disclosure, but accounts drafted under any other territory's practice would also be acceptable. There is no public filing of the accounts of any company, although the accounts of certain types of businesses, particularly banks and collective investment schemes, have to be available to the public.

A Guernsey incorporated company is only required to have an audit if it is classed as a "large company" as defined in The Companies (Audit Exemption) Regulations, 2008, which states that a company is a large company if; a) the company has an annual net turnover of £6.5 million or greater, b) the company has a net balance sheet of £3.26 million or greater or, c) the company has an average number of employees of 50 or more.

## **Economic structure**

Guernsey is regarded as an example of a free enterprise economy with low taxes (0% corporation tax), a free flow of capital, a skilled and mobile labour force and sophisticated financial and entrepreneurial infrastructure. These attributes have brought the Island to its position today of a leading Offshore Financial Centre.

Historically, the major industries of the Island have been horticulture, agriculture and fishing. Of these three the latter two have remained static both in terms of persons employed and output. In the case of horticulture, however, there has been a marked reduction both in the level of employment and production as a consequence of higher oil prices.

Tourism has long been an important industry in the Island, and whereas the numbers of the type of visitor who came 10 years ago has declined, people coming for 'short break' holidays are replacing them.

The principal growth area in the Island has been the finance sector. This has led to issues relating to staffing this expansion; the policy of the Government is to allow only those companies which will make an exceptional contribution in terms of revenue with minimal demands for staff to establish an operation in the Island.

Manufacturing has not in recent years been a significant sector of the Island economy. However, it has been recognised by the Government that, although finance has greater potential to generate revenue for the

Exchequer, a light industrial base is also needed in order to maintain a balance within the economy. To this end, land has been zoned for industrial use and various electronic equipment fabricators and other technology-based industries have been attracted to the Island.

## **Relationship of government and business**

A few sectors of the economy are government-owned in the public interest. The utilities sector, encompassing electricity production and distribution, and water supply, are the most prominent examples.

The Government has placed considerable emphasis on the regulation of the finance industry. In July 1987, the States of Guernsey passed The Financial Services Commission (Bailiwick of Guernsey) Law, 1987. This law created the Guernsey Financial Services Commission.

The Commission, which is a body corporate, has responsibility for supervising the financial sector of the Island economy. The Commission's main income is raised through fees payable by the organisations which it supervises and in part by a direct grant from the States of Guernsey. In addition to regulations appertaining to banks, there are also controls over insurance companies, fiduciary companies and collective investment schemes. The Commission and the finance sector have been pro-active in developing a modern and effective regulatory system; some recent changes are discussed below.

The other sectors of the economy are promoted and supported by other States departments, as detailed below.

## **Banking system**

Guernsey is well served by banks offering full and comprehensive banking services. Most banks maintain current and deposit accounts in all major currencies and are able to offer competitive high interest money market deposit accounts.

The policy of the Island has for many years been to encourage the growth of responsive banking and financial services and to supervise the liquidity of the financial sector through minimal but effective administrative surveillance. Legislation has been designed to favour limited monitoring of the sector rather than the introduction of stringent controls.

Any company wishing to accept deposits from the public requires a licence under the Banking Supervision (Bailiwick of Guernsey) Law 1994. The Law is modelled largely on the UK's Banking Act of 1987. It includes all the requirements and detail of a modern banking law designed to provide for the effective supervision of banks. The use of the title 'bank' is restricted to licensed institutions.

## **Administered banks**

In May 1987, the Islands' policy on the establishment of new banks was laid down. This was to encourage the establishment of 'administered banks', whilst not excluding the possibility of an organisation setting up on a full physical presence basis.

The administered bank concept differs from the 'brass plate' or 'cubicle' banks found in other jurisdictions in that the bank will actually conduct business in and from the Island and all its books and records must be kept on the Island to be audited locally. The bank has to report to the local regulators as fully as a bank with physical presence. However, it does not have any staff of its own; instead, it is managed by another bank established in the Island. Further, the manager of the administering bank will be expected to accept responsibility for the administered bank. It follows from this description that the administered bank would be resident in Guernsey for tax purposes.

## **Insurance**

The Island has continued to benefit from expansion of the insurance industry. The Insurance Business (Guernsey) Law 1992 gives regulatory and supervisory powers to the States, which have been delegated to the Guernsey Financial Services Commission. The law lays down specific requirements regarding capitalisation, solvency, approved assets and an annual return to be attached to the audited accounts. Insurance companies must also make abridged forms of their accounts available to their policyholders. Full details regarding the specific requirements of the law can be provided upon request.

Insurance and Reinsurance business in Guernsey includes both life and general insurance. The general insurance business is wide ranging and includes fire, marine, aviation, motor, personal accident and employee compensation. Insurance and Reinsurance business may be carried out only by companies incorporated in Guernsey, or with an established place of business in Guernsey. Some mutual insurance schemes are permitted under local legislation.

Guernsey is also an important centre for captive insurance companies, with locally licensed firms providing insurance management services.

## **Fiduciary services**

Guernsey is a major centre for the provision of international trust and corporate services. The industry is large, long established and well regarded.

The Bailiwick was one of the very first jurisdictions in the world to introduce a comprehensive system for the regulation and supervision of trust and corporate service providers (including company directors). The relevant law - The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 (the 'Fiduciary Law') - came into effect on 1 April 2001.

All those engaged in the provision of regulated fiduciary activities in or from within the Bailiwick must apply to the Commission for a licence authorising such activities. The provision of such activities without a licence is a criminal offence for which the penalty is a fine and/or imprisonment for up to two years. A list of all licensed fiduciaries can be found on the Commission's website at [www.gfsc.gg](http://www.gfsc.gg)

## **Collective Investment Schemes**

A major growth area for Guernsey in recent years has been Collective Investment Schemes, which may take many forms including unit trusts, open or closed-ended investment companies, protected cell companies etc. These funds are able to obtain exempt status for Guernsey taxation purposes.

These funds are able to be marketed in many parts of the world, and Class A Schemes, which are subject to particularly stringent regulation, may be marketed in the UK as having 'equivalent status' under the Financial Services and Markets Act 2000 (and thus being 'recognised schemes' under S 270 of that Act). There are also Class B Schemes (intended for retail sale, but subject to less onerous regulation) and Class Q Schemes (intended for professional investors only). Under recent changes to The Protection of Investors (Bailiwick of Guernsey) Law, 1997, Schemes may be regulated (which includes thorough Commission scrutiny) or simply registered (allowing for faster application process, but offering less protection for investors).

Guernsey hopes to be able to obtain equivalent status in the other EU countries, subject again to those funds meeting the marketing requirements of each country. The Island has been successful in obtaining agreement from both the Governments of Japan and Australia to market funds in those countries.

Before seeking to establish a collective investment scheme in the Island, a would-be promoter should first obtain advice regarding the requirements of the law, which continues to evolve to meet changing demands. A full list of all regulated funds is on the Commission's website.

## **Stock exchange**

In 1998 the Channel Islands Stock Exchange (CISX) was set up by the Guernsey Financial Services Commission (GSFC). The CISX aims to help local businesses to broaden their range of corporate services and to increase revenues. The exchange has achieved international recognition, being, for example a Designated Investment Exchange within the meaning of the Financial Services and Markets Act 2000

CISX differs from other exchanges in that local fund managers and professionals can become listing members. This allows them to list their own funds, thereby making considerable savings.

## **Anti-Money Laundering Laws**

A wide range of laws, including The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, now governs the handling by any financial services business of suspected criminal funds, including those derived from or intended for terrorism, drug trafficking and other crimes. This may involve disclosure to the relevant authorities.

These laws and regulations ensure that Guernsey is not abused as a financial centre. When opening an account, all financial services businesses must obtain full information on their clients, as is increasingly common in all reputable centres.

## **Exchange controls**

Guernsey has no exchange controls. No legal restrictions apply to the transfer of profits, the repatriation of capital invested in Guernsey or the transfer of royalties and fees.

## **Foreign ownership of business**

There are no restrictions on the foreign ownership of business. However, there are controls on immigration of personnel into the Island.

Although not part of the EU, the Island has a special relationship with the Union and physical goods, which are imported into or manufactured in Guernsey, are treated as being in free circulation for duty purposes.

## **3. Foreign investment**

### **Exchange control**

Guernsey has no regulations restricting the flow and repatriation of funds. This enables companies and financial institutions alike to obtain maximum flexibility in the management of their funds. The abolition of exchange controls in 1979 has greatly benefited the Island, and it is unlikely that the government would consider their re-introduction.

### **Restrictions on foreign investment**

There are no restrictions on the flow of investment into and out of the Island.

### **Investment incentives**

Guernsey's laissez-faire economic policy and generally low rates of effective taxation are regarded as providing all the incentives needed for foreign investors to enter this economy. Accordingly, there are no specific incentives offered to new investment other than some limited support for investment in the horticultural and fishing industry.

### **Importing and exporting**

Guernsey's reputation and success as a free flowing economy is largely due to the almost complete absence of restriction in the import and export of goods (except of course in relation to drugs, firearms etc).

### **Customs duties**

There are duties and tariffs payable on virtually all goods coming into the Island. However, where these goods are in free circulation within the EU no further duty is payable locally. Full details on specific items can be obtained from the Customs and Excise Division of the Home Department.

### **Documentation requirements**

For the purposes of customs procedures, Guernsey is regarded as a full member of the EU. This means that goods being imported or exported must be accompanied with the standard entry documentation known as the Single Administrative Document (SAD).

## 4. Setting up a Business

### Companies

A limited liability company is the most common form of business entity in Guernsey. The company may be limited by shares, or limited by guarantee. In a company limited by guarantee, members are liable only to the extent of the amount they guarantee to contribute if the company is wound up. Members of a company limited by shares are liable to the extent of the amount paid or unpaid (if any) on their shares.

There is no distinction between private and public companies although in practice the majority are effectively private companies.

### Protected cell companies (PCCs)

Under the 1997 Protected Cell Companies Ordinance it is possible to incorporate companies in Guernsey whose assets and liabilities are divided into distinct units or cells. PCCs have many uses, including captive insurance, asset holding and collective investment schemes.

The key feature of a PCC is that whilst it is a single legal person, the assets of a particular cell cannot be used to satisfy liabilities of another cell or liabilities of the company as a whole.

### Partnerships

In 1995 the Partnership (Guernsey) Law, 1995 was enacted. A partnership is formed by private agreement, generally in writing among the partners. However, because a partnership is a contractual arrangement, considerable freedom exists to adapt the form of organisation to meet the particular needs of the partnership.

A partnership is formed by two or more persons to carry on a business for profit. Each partner has the same rights, liabilities and powers as the other partners, unless specifically stated otherwise in partnership's debts. Legally, a partnership is not considered an entity separate from its partners. Its profits, distributed or not, are taxable to the individual partners. In addition, its tax losses are allocated to its partners.

The law does not require auditing of partnerships.

## **Limited Partnerships**

Also in 1995, The Limited Partnerships (Guernsey) Law 1995 was enacted. The principal purpose for such partnerships was in the field of collective investment schemes. It allows the liability of certain partners to be limited (limited partners). However, it requires at least one partner (general partner) to continue to have unlimited liability. The limited partners are not allowed to be involved in the management of the partnership that is solely the responsibility of the general partner.

## **Trusts**

A trust is a legally binding arrangement, usually evidenced in writing by a deed, under which reliable persons, the trustees, own assets entrusted to them by the settlor, not for their own benefit but for the benefit of others, the beneficiaries.

The trust deed evidences the existence of the arrangement; it also names the trustees and specifies what powers they have in relation to the trust assets, and their responsibilities to the beneficiaries. The deed will also specify the trust period - the maximum time the trust can subsist (Guernsey has no limit on the perpetuity of trusts).

The Trusts (Guernsey) Law, 2007 gives statutory backing to the prior customary law position of trusts in the Island. It also codifies the duties and obligations of the trustees and gives the Guernsey courts certain powers, which it will exercise on application from a settlor, trustee or beneficiary. This law also gives recognition to trusts established under a foreign law (for this purpose any law other than Guernsey is foreign) and in certain circumstances gives the court jurisdiction over such a trust.

The law also makes certain the validity of a trust, which was created by an individual even though this may have been in conflict with the law of his domicile or nationality under that foreign countries forced heirship requirements.

## **Branches of foreign companies**

A branch of a foreign corporation is not required to file any documentation with the Guernsey Registrar of Companies, although consent will be required if any banking, trustee, investment or insurance function is envisaged. A local branch, trading in Guernsey, will be liable to local taxation, and must submit a return to the local tax office.

## **Registration procedures**

The Companies (Guernsey) Law, 2008, effective from 1 July 2008, made major changes to the procedure for forming Guernsey companies, including provision for a 'fast-track' incorporation subject to certain limitations. The new law, however, provides that Guernsey companies may only be formed by persons holding full fiduciary licences under the Fiduciary Law. The Guernsey Financial Services Commission, on behalf of the Policy Council, will no longer receive details of proposed beneficial owners and undertake 'pre-vetting' on each Guernsey company formation application, and therefore there will be increased focus on the role of fiduciary licensees as 'gatekeepers' when applying for formation.

Before incorporation will be permitted, details of the promoters and objects of the company must be given to the fiduciary who will undertake the incorporation of the company. Company names must be submitted for approval before registration, and it is possible for company names to be reserved subject to receiving the appropriate consent. There is a restriction on the use of such words as 'bank', 'insurance' and 'trustee' and terms having a 'Royal Family' connotation.

It is possible to amend both the Memorandum and the Articles of Association by special resolution of the members. A change to the Memorandum can be challenged by application to the Royal Court by holders of not less in aggregate of 15% of the issued share capital. No shareholder who voted in favour of the change to the Memorandum can then participate in such an application.

Every company must have a registered office within Guernsey to which all notices affecting the company will be delivered.

## **Number of founders**

A minimum of one person must subscribe their name to the Memorandum and Articles of Association of the company; there is no maximum limit to the number of shareholders.

## **Permissible types of shares**

The Articles of Association of the company can be drafted in such a way as to permit any type of registered share and to regulate the rights of shareholders between themselves. Where a company is being established as a collective investment scheme then such rights would have to be disclosed in the prospectus and agreed with The Financial Services Commission.

## **Initial capital requirements**

There is no minimum capital requirement, except that one share has to be subscribed for the founder member. It is usual to issue shares at a premium, if a large capital is required, to mitigate the stamp duty cost which is payable on the Authorised Share Capital at the rate of 0.5%, up to a maximum of £5,000 of duty.

## **Board of directors**

At the time of incorporation, a return of the first directors must be filed. The Articles of Association will specify the minimum and maximum number of directors and the quorum for a meeting of the board. Directors must be registered with the Guernsey Registry prior to their appointment.

## 5. Labour

### Entry visas and work permits

The Housing Department is responsible for controlling immigration into the Island. They do this by issuing licences, which allow the occupation of 'local market' properties by persons who are not qualified residents. 'Open market' properties may be purchased and occupied without restriction, but they are in limited supply and command a substantially higher price for this reason.

The demand for immigration into the Islands comes from two distinct groups. There are, firstly, people wishing to move to the Island to take advantage of its favourable fiscal climate (who will usually purchase 'open market' property), and, secondly, people whom the Island employers wish to bring into the Island because their skill or expertise is needed to enhance that employer's business.

In determining whether the employment for which a housing licence application is made is worthy of the issue of a licence, the Department takes into account the economic value to the Island of that employer, and the expertise and local availability of the skills of the employee, countered by the social cost to the Island of increasing the pressure on housing stocks. New businesses moving into the Island will be advised how many, if any, licences will be made available to them before they set up business. At present, the supply of licenses is very limited and new businesses must be prepared to buy on the 'open market' in order to house staff.

If a housing licence is granted, or if an 'open market' property is purchased, the individual will then be able to apply for a Right to Work document (see below).

The terms and conditions of employment, which are negotiated on a direct basis between employer and staff, must be put in writing under The Conditions of Employment (Guernsey) Law 1985. Should a dispute arise, assistance is available through the offices of the Industrial Disputes Officer.

The Island has enjoyed virtually full employment for many years. The labour force is skilful, adaptable and hard working. Businesses in the Island enjoy excellent management-labour relationships.

The wages of Guernsey's labour force are broadly equivalent to those of the UK. Wage rates differ among the various sectors of the economy depending upon the amount of skill and training required, and the availability of suitably qualified staff. The Government has not imposed

any legal minimum wage, but there are negotiated minimum wages in certain industries.

The school leaving age is 15. Once a person has left school there are no legal restrictions on the number of hours of work. However, the average working week is 40 hours for both male and female labour.

## **Right to Work Law**

In order to have a greater control over immigration into the Island, The Right to Work (Limitation and Proof) (Guernsey) Law, 1990 was introduced. It places an onus on an employer to satisfy itself that an employee is living lawfully in Guernsey under the provisions of the Housing Laws. An employer is obliged, under the law, to keep records relating to an employee and must have a Right to Work document if they commenced employment with that employer after 1 December 1989.

## **Social security**

A Social Insurance Scheme under which contributions are related to earnings was introduced in 1979. The current contribution rate for employees is in general 6.0% of gross earnings, whilst the employer pays 6.5%. Both upper and lower wage thresholds limit liability for the contributions; different thresholds apply to employers and employees.

Under current social security arrangements, the government pays hospitalisation and related medical and nursing costs. The costs of consultations with a General Practitioner are borne by the patient, subject to a grant from the government for each consultation. The Social Insurance Scheme was extended to cover specialist medical requirements from the beginning of 1996 and the contribution rates increased accordingly. The cost of specialist medical care is now generally borne by the Scheme, but there are options available for private care at the patient's expense. There are a number of private insurance schemes available to individuals to cover such costs, and it is becoming increasingly common for employers to pay for a group scheme.

## **Pension and benefit provisions**

The social security deductions also contribute towards an old age pension, payable at normal retirement age of 65 for men and 60 for women, and a number of other social benefits including invalidity and unemployment benefit.

## **Special requirements for foreign nationals**

The problem of population growth has previously been referred to and it again impacts on the procedure for the immigration of foreign nationals into the Islands. Immigration is regulated under the terms of the Immigration (Guernsey) Order 1993 and The Immigration (Bailiwick of Guernsey) Rules 2008.

Guernsey is included in the British Isles Common Travel Area, which in general terms permits freedom of travel for all persons lawfully within the British Isles. Therefore, this legislation principally affects people who are nationals of countries which are not members of the EU who enjoy free movement within the EU countries.

For those persons who are nationals of a foreign or Commonwealth country and who are eligible to be admitted to the UK, under UK immigration legislation they will also be eligible to be admitted to Guernsey. However, it should be noted that the Guernsey rules do differ from the UK rules.

Once the rules have been complied with, the immigrant will be issued with a work permit. He or she will then have to ensure that they are legally housed under the provisions of The Housing (Control of Occupation) (Guernsey) Law 1982, and also obtain a Right to Work document.

## **6. Taxation**

The two principal sources of revenue to the government are Income Tax and States Insurance Contributions. These account for 80% of income. The balance is made up of investment income and other duties and taxes. Of these, import duties and imports account for only 6% of total public revenue.

### **Direct taxes**

Income tax at 20%, subject to personal allowances, is levied on the income of individuals resident in Guernsey and corporations generally enjoy a rate of 0%. There are no other direct taxes or capital taxes (with the exception of Dwellings Profit Tax) chargeable in the Island. Licensed banks are taxed at 10% and persons resident in Guernsey in receipt of dividends or other deemed distributions are taxed accordingly.

### **Indirect taxes**

As indicated above, indirect taxation forms a relatively small part of government income. As part of their relationship with the EU, the Islands apply the same common customs tariff as member countries on goods being physically imported into the Island from a foreign country. In addition the Islands impose import duties on certain goods, principally alcohol and petroleum products. There is no value added tax or general sales tax applied in the Islands.

### **Sources of tax law**

The principal law is The Income Tax (Guernsey) Law 1975, as amended; in addition the Income Tax Office publishes annually a statement of Interpretations of Law and Extra Statutory Concessions. It is also possible to obtain a ruling from the Administrator of Income Tax, who is the administrative head of the Income Tax Office, on the application of the law in any particular instance.

### **Filing and assessment**

The Income Tax Authority issues tax return forms and assessments are issued based on information filed. The assessment shows the amount assessed, the tax payable and the due dates for payment. Where the tax return is not filed then an estimated assessment will be issued and it is the taxpayer's responsibility to demonstrate that the assessment is incorrect. If the taxpayer continues in not submitting the tax return then under section

200 of the Income Tax Law, the Administrator of Income Tax has power to impose fines until the returns are submitted.

## **Depreciation and amortisation**

Expenditure of a capital nature is not deductible, nor is depreciation. Instead a claim will be made for Writing Down Allowances in accordance with the rates specified by the Income Tax Office. In general, the amount of allowance is computed by adding the cost of acquisitions, less the proceeds of sales to the tax written down value brought forward and then applying the appropriate rate of allowance. Proceeds of sale, which exceed the written down value plus acquisition cost in the year, gives rise to a balancing charge.

## **Foreign tax exemption and credit**

Double tax relief is available for any income received which has had tax deducted at source. In the case of income from the UK (other than for dividends and debenture interest) or Jersey, with whom the Island has double taxation agreements, the rate of relief is the Guernsey effective rate of tax. This means that no further tax, on that income, is payable in the Island.

Unilateral relief is given for all tax deductions by other jurisdictions. The rate of relief is the lower of the effective rate of deduction, or three-quarters of the Guernsey effective rate of tax.

## **Loss carryovers**

The application of the loss relief provisions is such that there is a carry back of loss relief for one year and any remaining losses can be carried forward against future profits of the same business without limitation.

## **Dividends and interest paid to non-residents**

In accordance with the EU Savings tax directive, with effect from 1 July 2008, 20% withholding tax will be deducted from interest paid on the personal bank deposits of EU residents.

With regard to dividends paid by resident companies, there is no requirement to deduct tax. Where tax is deducted from the gross payment it is treated as a payment on account of the paying company's own tax liability. To the extent that the tax deducted from the gross dividend is in excess of the company's tax liability, that amount will be repaid to the company. In the hands of a resident recipient the dividend will be grossed up and credit thereby given for the underlying tax.

## **Branches**

A foreign incorporated company will be liable to income tax only on the profits of its branch where these arise within a permanent establishment.

It is usual to obtain a ruling from the Administrator of Income Tax as to the taxable profit of the branch and in particular the deduction for group expenses in the form of a specific ruling (as explained in sources of tax law, above).

## **Partnerships and joint ventures**

There is no specific provision within the tax law for the taxation of partnerships and joint ventures. Individual partners would be assessed in their own name on their share of the partnership or joint venture profits.

## **Trusts**

Where a trust is established and neither the settlor nor the beneficiaries are residents of the Bailiwick then the trust would be viewed as a non-resident and only liable to taxation on its Guernsey source income, principally rent. There is a statutory exemption for bank deposit interest paid by a Guernsey bank to a non-resident trust.

## **Residents and non-residents**

A person who is 'resident', and 'principally resident' in the Island, (residence is defined by the Income Tax Law) is liable to income tax on their worldwide income, whether or not it is remitted to the Island.

A person who is 'resident', but not 'principally resident', in the Island is liable to income tax on income arising in or remitted to the Island.

A person who is 'non-resident' is liable to income tax on income arising in the Island, subject to a statutory exemption on bank deposit interest.

## **Deductions**

There are a limited number of allowances which are available to individuals as deductions from their personal income. Mortgage interest, subject to a limit on the principal amount currently of £400,000, is deductible for tax purposes.

## **Dwellings profits tax**

In order to discourage speculation in domestic property (dwellings) any profit made on the sale of a dwelling will be taxed at the rate of 100%,

subject to an allowance for inflation. There are various exemptions from this tax, the main ones being in respect of:

- A dwelling which has been owned for five years
- A dwelling which has been owner-occupied for a year and a day
- Property which has been newly built or reconstructed by a builder in the normal course of his business.

## **Tax treaties**

The Island has entered into only two double tax treaties. The first was signed in 1952 between the Island and the Government of the UK. Under this agreement certain classes of income derived from one country by a resident of the other country are (subject to certain conditions) exempt from tax in the former country. The principal class of income is certain trading profits not arising through a permanent establishment. Provision is also made for the exchange of information between the taxation authorities of the two countries. This treaty was revised in January 1995 to the extent that only Guernsey resident companies and international companies, which pay tax at an agreed rate of 20% or more, can benefit from this treaty.

The second treaty was signed in 1955 with the States of Jersey and contains provisions similar to that with the UK.

## **7. Accounting & reporting**

### **Record-keeping**

Companies are obliged to maintain, at their registered office in Guernsey, the books and records of the company which generally include:

- The Memorandum and Articles of Association, amendments to the Memorandum and Articles of Association, and a copy of any shareholder agreements;
- Minutes of meetings and resolutions of shareholders;
- Copies of all notices filed with the Registrar of Companies;
- A list of shareholders;
- Accounting records.

Shareholders and their agents or legal representatives may examine the records outlined above during the regular business hours of the company. In addition, records of the minutes of meetings and resolutions of the directors should also be maintained and these are available for inspection by any director.

### **Returns**

The company must submit an annual return of its shareholders and directors, which is held for public record. There is a fee payable on submission. It must also file a return of allotments on a share issue, and a notice of change of registered office, which must be in Guernsey, when applicable. No further information need be held for general inspection, although other documents may be filed at the Company Registry with the agreement of Registrar of Companies.

### **Legislation**

The principal law regulating companies is The Companies (Guernsey) Law, 2008. In addition, there is a specific legislation in respect of banks, insurance companies and collective investment schemes.

### **Accounting records**

The maintenance of corporate records is a statutory requirement.

The accounting records to be maintained should be sufficient so as to show and explain the company's transactions and disclose with reasonable accuracy, at any time, the financial position of the company, and to enable

the directors to ensure that its financial statements have been properly prepared and are in accordance with any relevant enactment for the time being in force.

## **Financial statements and other financial information**

Directors of each company are required to present a balance sheet and a profit and loss account every calendar year at the members' annual general meeting. These financial statements do not have to be filed with any public registry and generally for a private company do not receive wide public distribution.

A public company, bank, or collective investment scheme have broader reporting responsibilities and audited financial statements must be posted to all shareholders annually and, in respect of banks, should be available to all depositors.

## **Data protection law**

In July 1986 the Government passed The Data Protection (Bailiwick of Guernsey) Law 1986. The terms of the legislation are fundamentally the same as UK legislation and require those organisations that keep data on individuals on a computer to register.

## **Sources of accounting principles**

There is no statutory disclosure requirement, except in relation to banking, insurance and Collective Investment Schemes for Guernsey companies, although the normal practice would be to follow UK standards. The Guernsey Society of Chartered and Certified Accountants have issued as guidance to its members a Statement of Channel Islands Accounting Practice. However, there is no reason why the accounts should not be prepared under any other generally accepted accounting principles.

## **Financial reporting**

There is no public filing of the accounts of Guernsey registered companies, but it is usual to follow the UK's disclosure requirements. Banking companies, insurance companies and collective investment schemes are required to make copies of their accounts available to their depositors, policyholders and investors respectively. The contents of these accounts are specified in the respective legislation.

## **Audit requirements**

Guernsey companies may also resolve (by waiver resolution) to be exempt from audit. However, the Law contains a provision that allows the Commerce and Employment department to issue regulations requiring certain types of companies to produce audited accounts, for example regulated companies. .

The auditor is appointed initially by the directors and, in subsequent years, by the members at the annual general meeting. The auditor is required to express his opinion as to whether the accounts of the company show a true and fair view of the state of the company's affairs.

## **Unaudited companies**

Where an asset-holding company wishes to dispense with an audit, this must be by the unanimous agreement of all its members in writing, which must be reconfirmed at each subsequent general meeting. When filing its annual return an unaudited company must attach a certificate signed by two directors, or a director and a secretary, confirming that the unaudited status is continuing.

In the directors' report, which must be attached to the annual accounts, the directors must specifically state that the company's balance sheet and profit and loss account have been prepared properly, in accordance with generally accepted accounting principles, and in accordance with any relevant enactment for the time being in force; and are in agreement with the accounting records, which have been properly kept in accordance with the law; and have not been audited.

## **Auditors' responsibilities**

An auditor's professional responsibilities are laid down in the rules of professional conduct, which are enforced by the relevant professional institute of which the auditor is a member. These rules, which are basically uniform, require that the accountant:

- Perform professional services with integrity and care
- Be independent both in fact and appearance
- Not be associated with financial information that is false or misleading
- Not make improper use of confidential knowledge.

The company law contains a number of specific provisions pertaining to an auditor's rights and responsibilities. When performing an audit of a company the auditor refers to the appropriate legislation having jurisdiction over that company's operations, particularly legislation relating to banks, insurance companies and collective investment schemes.

## **Accounting profession**

The principal accounting firms in Guernsey are constituted of members of The Chartered Institutes of England and Wales, Scotland or Ireland, or members of The Chartered Institute of Certified Accountants. Practitioners look to their parent institutes for guidance on matters of professional procedure, practice, ethics and administration of professional examinations.

## 8. UHY firms in Guernsey

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Guernsey  
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Tel: +44 1481 727249  
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## 9. UHY offices worldwide

For contact details of UHY offices worldwide, or for details on how to contact the UHY executive office, please visit [www.uhy.com](http://www.uhy.com)