



AMINEWS

News Flash

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- Barbados International Business Company ("IBC")
- Using a Barbados Company as a Vehicle for Holding Assets
- Using a Barbados Company as an Investment Vehicle for Mexican Individuals
- Mexican Tax Implications





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Introduction

The Amicorp Group is pleased to introduce two new structures: the first provides Mexican individuals a new way to hold assets through a foreign entity while maintaining security, confidentiality and tax efficiency; the second structure allows multiple clients to invest through a single legal entity yet still have each client's investment remain legally and economically segregated from every other clients' in the entity. The platform for both structures is founded on the Barbados International Business Company ("IBC").

We believe that due to the recent approval given by the Mexican Senate to the Mexico/Barbados Double Taxation Agreement, Barbados will be stricken off the Mexican Blacklist very shortly and thus structuring through Barbados will become an efficient solution for Mexican taxpayers.

Read further for more information.

NOTE: It is important to mention that Amicorp does not provide legal or fiscal advice. Therefore this document should not be considered as a legal or fiscal opinion. Accordingly, we recommend that each particular case be analyzed by your local fiscal or legal advisor/s.

Barbados International Business Company ("IBC")

An IBC is considered a 'resident' in Barbados for tax purposes. It is generally used to engage in non-Barbados based (offshore) business. Barbados taxes the IBC at rates varying from 1.0% to 2.5%, depending on the company's annual level of income. However, all profits and gains are tax exempt in Barbados when the IBC is wholly held (owned) by a Barbados 'Offshore' Trust.

The IBC is permitted to have only one shareholder; there is no minimum capital requirement and no withholding tax rate on distributions of dividends, interests, royalties and administrative payments provided the recipient is an IBC or a foreign resident.

The IBC can be used to hold a wide variety of non-Barbados assets, such as foreign bank accounts, immovable property (e.g., located in Mexico) and stock shares (e.g., issued by Mexican entities).

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Using a Barbados Company as a Vehicle for Holding Assets

'Offshore' Trust

In order to incorporate a Trust it is necessary to have three (3) parties:

- The Settlor - the person who contributes the assets to the Trust;
- A Trustee - the entity or person who is responsible for the administration of the Trust in favor of the Beneficiaries; and
- The Beneficiaries - the persons for whose benefit the Trust has been established.

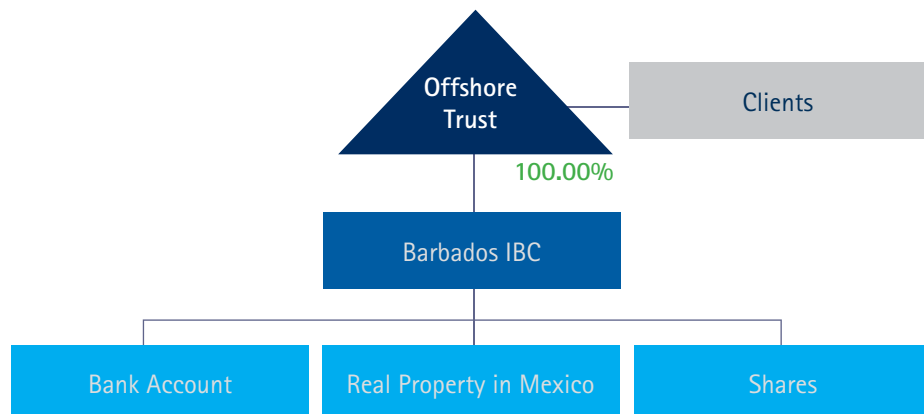
The administration, terms and conditions of the Trust are contained in documents called, "Trust Deed" and "Letter of Wishes". Though the documents are made when the trust is formed, the documents can be changed during the life of the Trust. The Settlor can choose to designate a person or group of persons to be a 'guardian' over the management of the Trust. This guardian is known as a, "Protector". The Protector's main function is to approve certain decisions made by the Trustee. Normally, they are decisions relating to any distributions and changes of beneficiaries.

To constitute a Barbados Offshore Trust, the Trustee must be a company (often a Bank) licensed under the provisions of the International Financial Services Act 2002-5. Amicorp can provide this type of Trusteeship in the very near future.

Proposed Structure

A Barbados Offshore Trust is formed to hold (own) a Barbados International Business Company whose only function is to hold foreign assets.

This structure may be illustrated as follows:



This simple structure provides an easy method for Mexican individuals (as well as others) to hold assets and maintain security, confidentiality and tax efficiency.

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Using a Barbados Company as an Investment Vehicle for Mexican Individuals

Barbados Segregated Cell Company ("Cell Company")

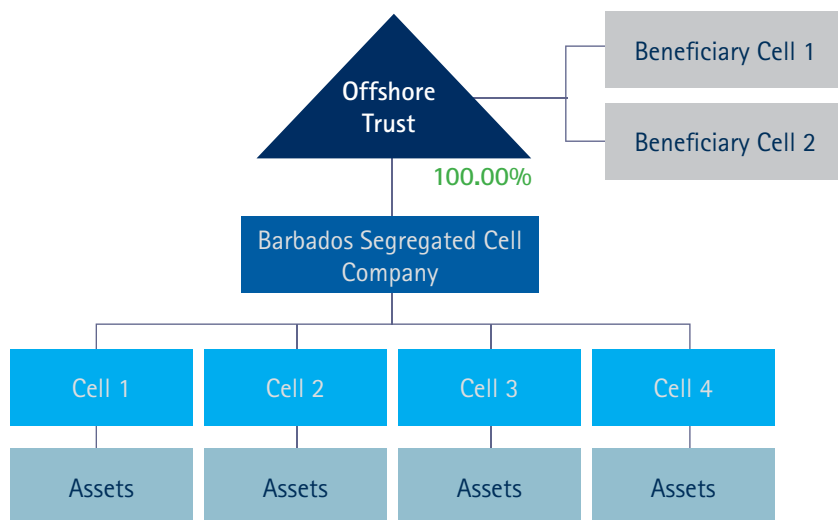
A 'Cell Company' is a single company that can provide separate, legally independent divisions ("Cells") within itself, by issuing different share classes ("Cell Shares"). Each Cell segregates all liabilities, risks, profits and losses of each Cell. Each Cell effectively becomes a miniature legal vehicle within the larger Cell Company, responsible for only its own assets and liabilities. There is no restriction on the number of individual Cells that may be placed within a Cell Company.

Barbados Cell Companies are deemed, 'resident' entities in Barbados. If the Cell Company is set-up as an IBC, it will be taxed in the same manner as standard IBCs (rates from 1.0% to 2.5%). Likewise, there is no withholding tax on distributions of dividends, interests, royalties and administrative payments. Profits and gains are tax exempt in Barbados when the Cell Company is wholly owned by an 'Offshore' Trust.

Proposed Structure

A Barbados Offshore Trust is formed to hold (own) a Barbados Segregated Cell Company that provides individual Cells for each investor/client.

This structure may be illustrated as follows:



This simple structure provides a single operational vehicle for multiple clients - segregating each client's legal and fiscal interests within sub-vehicles that isolate and insulate those interests for the client and

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Mexican Tax Implications

In 1997, the Mexico passed new legislation on 'preferential tax regimes'. In 2005, the Mexican tax system was changed from a 'territorial' regime to a 'transactional' regime. The blacklisting of a jurisdiction was no longer the sole criterion to determine if a foreign investment is deemed to be located in a jurisdiction with a preferential tax regime. The rules changed yet again in 2008.

[The 2008 legislation is generally described below:](#)

Provided that the Mexican taxpayer, as the beneficial owner/investor in a foreign entity has, by himself or together with related persons, control and administration influence on the income obtained by the foreign entity, the Mexican taxpayer will be currently subject to tax in Mexico on the passive income obtained by entities resident in a blacklisted territory. The same would apply for the passive income obtained by entities that are not resident in a blacklisted territory, but that are subject to a "preferential tax regime". A "preferential tax regime" is basically a foreign jurisdiction tax regime that imposes an income tax that is less than 75% of the tax that would have been incurred and paid in Mexico (in practice this means a foreign income tax of less than 21%). This rule is also applicable to income obtained through foreign transparent entities.

In effect, Mexican taxpayers qualifying under the above are obliged to anticipate the taxation of undistributed income in the fiscal year in which it is generated abroad (i.e., the income is taxed even if the foreign entity does not distribute the income to the taxpayer).

However, this "anti-deferral" legislation does not apply to indirect investments in which the average daily interest of the Mexican taxpayer does not allow the Mexican taxpayer to hold effective control (either directly or indirectly) during the time in which the income is (or could be) distributed. Given the absence of such control, the Mexican taxpayer can defer the income recognition until the profits are actually distributed (only then being included as taxable income for Mexican tax purposes).

Referring back to the Cell Company, its income tax rate varies from 1.0% to 2.5%, Mexicans investing through such a structure would generally be obliged to inform and declare to the Mexican tax authorities the income received by the Cell Company from the moment the Cell Company generates any income.

However, if the Mexican investors are connected to the structure only as Beneficiaries (of the Barbados Offshore Trust) without control over distribution decisions, they would not be obliged to inform or declare to the Mexican tax authorities the income generated by the structure.

For more information we invite you to contact your nearest Amicorp office or Mauricio Cano del Valle directly.

[Mauricio Cano del Valle](#)

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