

BFSB Chairman, Craig (Tony) Gomez



Bahamas Advances Tax Information Exchange Objective

Friday September 25th, 2009

The Government of The Bahamas has signed a Tax Information Exchange Agreement (TIEA) with [San Marino](#). This agreement, together with agreements signed with the [United States of America](#) (2002) and the [Principality of Monaco](#) (2009), advance The Bahamas towards its stated objective to secure 12 Organisation for Economic Cooperation and Development (OECD) compliant agreements before the end of the year.

The notification for the signing of the TIEA with San Marino was provided by The Hon. Zhivargo Laing, Minister of State for Finance during the Annual General Meeting of the Bahamas Financial Services Board (BFSB) on September 23.

Minister Laing also took the opportunity to reaffirm the Government's intention to conclude agreements with the list of countries previously named by the Government on July 29. He indicated that the list could be extended to additional countries, where such decisions would be in the best interests of The Bahamas.

In its September report "*Tax Co-operation 2009. Towards A Level Playing Field*", the OECD confirmed that The Bahamas had opened negotiations with Canada, the United Kingdom, Australia, Spain, Germany, France, Turkey and the Nordic countries (Norway, Sweden, Finland, Denmark, Iceland, Greenland and the Faroe Islands) for agreements on tax information exchange. The OECD also reiterated the intention of The Bahamas to conclude negotiations on these agreements by the end of this year.

The Bahamas Financial Services Board (BFSB) continues to support the decision by the Government of The Bahamas to negotiate appropriate arrangements to meet OECD standards for transparency and effective exchange of information.

When the Organisation for Economic Cooperation and Development launched an initiative in 1998 that sought to improve transparency and information exchange in tax matters, The Bahamas, as a sovereign

nation, sought in 1999 and, again in 2002, to protect its economic interests and fiscal autonomy in all negotiations with the OECD. The Bahamas considered the establishment of a level playing field, where all OECD members and major finance centres agreed to implement the same standards, to be critical to its economic interests.

By mid-March 2009, a significant leveling of the playing field was achieved with the commitment by all OECD countries and major financial centres to the OECD standard for information exchange. The Bahamas Government, with the support of the private sector, agreed to begin to negotiate suitable arrangements that meet the OECD standard for information exchange on March 25th, 2009. (There are two mechanisms for agreeing to cooperate on tax matters: (1) the OECD approved Article 26 in Double Tax Treaties/Agreements or (2) Tax Information Exchange Agreements.)

On March 25, 2009 BFSB issued a statement which said:

“BFSB believes the decision to endorse the OECD Standard reinforces The Bahamas’ unwavering commitment to be a trusted jurisdiction for clients and to be a responsible member of the international community.

“The Bahamas remains strongly committed to the principle that persons have a right to privacy with respect to the conduct of their affairs. This right, set out in the United Nations Charter Article 17, provides for the right of every person to be protected against arbitrary or unlawful interference with his/her privacy, family, home or correspondence, as well as against unlawful attacks on his/her honour and reputation. The charter provides everyone with the right to the protection of the law against such interference or attacks. The Bahamas supports this legitimate right to confidentiality through its common law, Data Protection (Privacy of Personal Information) Act, 2003 and various legislative provisions.

“Respect for the rule of law has always been fundamental to the success and strength of the financial services industry in The Bahamas. As such, clients can be assured that The Bahamas will only exchange information on agreed and transparent protocols. These protocols, as established under the tax information exchange agreement with the United States and recognized by the OECD, preserve the traditional confidentiality extended to those engaged in legitimate business. Legislative and administrative regimes in The Bahamas have, and will continue to have, respect for the privacy of our clients and will preserve banking confidentiality.”

The Bahamas has demonstrated that as a sovereign nation it is an active contributor to the discussion on a range of global matters and that it is determined to act in a responsible manner. The Bahamas’

commitment to the transparency and information exchange standards of the OECD in 2002 was conditioned upon and subject to there being a level playing field. Since this time, The Bahamas has been an active participant in the Global Forum and its various sub-committees and is now prepared to negotiate and conclude suitable arrangements.

The insistence of the government on clarity and unequivocal language with respect to a level playing field, particularly as it relates to timelines and standards, was strongly supported by industry in 2002. Likewise the industry now supports the decision of the government, in conjunction with the governments of other major financial centres, to agree to endorse the OECD standards on transparency and effective exchange of information through defined and agreed protocols.

This decision will serve to reinforce the respect for personal privacy and the use of appropriate means for cooperation among countries. We believe this is in the best interest of clients and the international financial services industry of The Bahamas. While the bi-lateral negotiation process is ongoing, it is our understanding that no information will be shared on an automatic or spontaneous basis. Further, the well-established confidentiality for those who live or conduct business in The Bahamas will continue. Most importantly, The Bahamas will retain a legislative and administrative system that respects both the privacy of its clients and preserves the banking confidentiality in its financial services sector.

In fact, this legislative framework continued following the Tax Information Exchange Agreement between The Bahamas and the United States of America. Under the terms of this agreement, tax information would only be exchanged pursuant to specific request for tax years beginning in or after 2004 for criminal tax offences, and in or after 2006 for civil tax defaults. Sufficient evidence must be provided to support the request for information, and information released will be subject to stipulated safeguards.