



# DOING BUSINESS IN ANGUILLA

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## INTRODUCTION

This pamphlet is designed to assist first-time visitors to the island who have with no knowledge of the business community here.

### DEPENDENT TERRITORY

**Anguilla** is a British Dependent Territory. Britain is responsible for all the island's matters of foreign affairs and for the defense of the island. The local Legislative Council is responsible for internal matters.

### LEGISLATIVE COUNCIL

The Chief Minister heads the Legislative Council. He is elected from the political party that wins the majority of the Council seats at a General Election. Although usually held every five years, the Government of the day can call a General Election at any time within its term of office. There are presently seven constituencies in Anguilla, each represented by one elected member.

### POPULATION

The population of Anguilla is approximately 10,000. The working population is about 4,000 of the 10,000. The rate of unemployment is possibly the lowest in the world.

### LANGUAGE USED

The official language in Anguilla is English.

### TELECOMMUNICATIONS

Anguilla has a modern telephone system, which is fully digital, and an Internet Service, both operated by Cable & Wireless (W.I.) Ltd. The area code is 264.

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## LEGAL SYSTEM

### COMMON LAW SYSTEM

The legal system of Anguilla is based on the Anguilla Constitution order 1982, statutes and British common law system.

English precedents and those of other British Commonwealth Countries are persuasive in court.

### EASTERN CARIBBEAN SUPREME COURT

The island judiciary falls under the umbrella of the Eastern Caribbean Supreme Court. The islands covered by the Eastern Caribbean Supreme Court are:

Anguilla, Antigua, Barbuda, British Virgin Islands, Dominica, St. Lucia, St. Kitts, Nevis and Montserrat.

The island is served by a Puisne Judge who presently resides on Anguilla. The judge serves the Islands of Montserrat and Anguilla.

The High Court of Anguilla sits in its civil and criminal jurisdiction at least three times per year: January/February; June/July and October/November.

## CIVIL AND CRIMINAL JURISDICTION IN ANGUILLA

The High Court deals with the most serious offences and all civil matters involving property valued at EC \$15,000 (US \$5,800) and above. The Magistrate Court deals with minor offences (misdemeanors). There is a resident magistrate on Anguilla. The Magistrate Court sits all year round.

## FIVE REASONS WHY YOU SHOULD DO BUSINESS IN ANGUILLA

1. No Income Tax
2. No Corporate Tax
3. No Inheritance Tax
4. No Foreign Exchange Control Regulations
5. Secrecy under Confidential Relationship Act 1981

## TAX SHELTER

Anguilla is a tax shelter, similar in many ways to other British tax shelters. The British Virgin Islands, Bermuda, The Bahamas, Barbados, Antigua, St. Kitts, Nevis and the Cayman Islands also offer similar facilities and services.

## TAX TREATY

The United Kingdom Income Tax Convention with St. Kitts-Nevis-Anguilla to Denmark, Norway, Sweden, Switzerland, New Zealand and the United States is applicable to Anguilla. However, since Anguilla no longer has income tax, the treaties are one sided and not much weight is given to them.

## TAXES

There is no personal income tax or company tax on the island. The government taxes are derived from stamp duty on the transfer of property, duty on the importation of goods to the island, hotel accommodation tax, and stamp duty on the Alien Land Holding License.

## STAMP DUTY ON ALIEN LAND HOLDING LICENSE

At present, the tax on transfer of real property is 5%. On the Alien Land Holding License it is 12.5%, making a total of 17.5% tax for an alien purchasing property on the island. Duty on motor vehicles is approximately 25%. This is possibly the lowest in the British West Indies.

## REPATRIATION OF PROFITS

Companies are allowed to repatriate all profits, dividends and management charges.

## CURRENCY

The official currency is the Eastern Caribbean Dollar. The EC Dollar, as it is commonly called, is tied to the U.S. Dollar. The exchange rate is US \$1.00 to EC \$2.6882. American dollars are accepted in all hotels and stores. All four Banks are 'A' Class Banks and offer very good services.

## FREE TRANSFER OF FUNDS

There is no currency or exchange control in Anguilla. No approval need be obtained for the transfer of dividends, interest, royalties, other profits and repatriation of capital.

## CONFIDENTIALITY

The Confidential Relationship Ordinance 1981 prohibits the disclosure of information relating to a person's financial business on the island of Anguilla. The Ordinance does not cover acts which are criminal offences in Anguilla.

Anguilla is a participant of the Mutual Legal Treaty Assistant with Britain and the United States and by virtue of this treaty, Anguilla is obliged to assist in the investigation of criminal offences, except for matters related to tax.

The Common Law implied term of confidentiality between the client and his lawyer, or banker, applies to Anguilla, as it does to the United Kingdom.

## STARTING A BUSINESS

In general, one has the same options in Anguilla as in any of the British Commonwealth Countries, depending on the financial status of the individual or group. One may start as a sole trader, partnership, unlimited company, public limited company, specific private company, limited liability company, limited duration company and/or hybrid company. International clients, whose purpose is either for tax planning

or doing business off-shore, may wish to choose an **International Business Company (IBC)**.

#### THE INTERNATIONAL BUSINESS COMPANY

This form of company combines the best features of the now-familiar models used in a number of offshore jurisdictions, and is suitable for companies that will not be doing business on the island. Ease of formation and limited reporting requirements make this option appropriate where an international company is needed.

The International Business Companies Ordinance 1994 has many modern features. For example:

*A company may have only one director, who may be a nominee or any recognized person under Anguillian law, including a company, trust or partnership.*

*A company may purchase or redeem its shares.*

*Treasury and bearer shares are permitted.*

*Share register inspection is restricted to registered shareholders.*

*There are no financial audit or statement requirements.*

*Domicile can easily be transferred to and from Anguilla.*

*Meetings may be held anywhere, by telephone or other electronic means.*

An International Business Company may be used in conjunction with other entities, such as a trust, or various forms of partnership, as circumstances may require.

#### THE PRIVATE COMPANY

This entity is exempt from any of the filing and reporting requirements of an ordinary or public company, and may also be designed to function in conjunction with a trust created under the Trusts Ordinance 1994. Other attractive features of this form of company are:

The acceptance of electronic signatures as evidence, notwithstanding the usual Evidence Act provisions;

Exclusion of the ultra vires doctrine;

Nominees may be used in place of principals;

Meetings may be held anywhere, by telephone or other electronic means;

No anguillian shareholder or director requirement;

Provision for domiciliation of companies incorporated under the law of other jurisdictions.

## THE HYBRID COMPANY

A company formed under this provision may be limited by guarantee or by both shares and guarantee. As such, it will have some of the features of both a partnership and a company. It is a particularly attractive vehicle in civil law jurisdictions, which may not recognize the traditional common law trust concept.

Civil law jurisdictions may view a transfer to a trust as no more than a transfer to an individual (with consequent gift or transfer tax implications) or a void ab initio, thus defeating the very purpose of the transfer. The hybrid company can effectively separate shareholder members from guarantor members and limit the rights of shareholders and guarantors so as to comply with the laws of the member's domicile in the most tax efficient way.

## ASSOCIATION FOR NON-PROFIT

This provides a structure for private clubs and associations engaged in charitable works.

## A PUBLIC COMPANY

Such a company has all the attributes and requirements of a company offering shares to the public.

## THE LIMITED LIABILITY COMPANY

The Limited Liability Company Ordinance 1994 provides a comprehensive framework for the operation of a limited liability company, also known as a limited duration company. This form of non-incorporated association has some features of a company, including capacity to sue and be sued, separate legal identity, ability to own and transfer property, and limited liability of participants. It also has some of the features of a partnership, and if correctly structured, United States tax laws treat them as "pass through" entities, so that only the members and not the entity are subject to tax. This entity, based on a concept first enacted in Wyoming in 1977 and the subject of subsequent favourable IRS revenue rulings, has now been legally created in many states in the United States of America. The Anguillian legislation is modeled on the best of the Limited Liability Company Acts to emerge.

## PARTNERSHIP LEGISLATION

It is sometimes useful to combine a company or trust with a partnership or limited partnership. A limited partnership in particular can be an efficient vehicle for venture capitalists who wish to limit their exposure to management and

partnership liability. The Partnership Ordinance 1994 and the Limited Partnership Ordinance of 1994, which is part of the same legislative revision exercise, provide a thorough frame work for such structures.

Please check with your Company Formation Agent or Attorney-at-Law for the annual corporate and other fees before starting a business.

## TRUSTS

The Trusts Ordinance 1994 is the most comprehensive legislation to address developing areas in the law of trusts including asset protection trusts. To this end, it provides the utmost flexibility to the financial planner. Accordingly, the Ordinance, among other innovations, includes:

### SPECIFIC PROVISIONS PROTECTING THE TRUST

The law specifically provides that where a trust is created under the laws of Anguilla, the Court shall not vary it or set it aside or recognize the validity of any claim against the trust property pursuant to the law of another jurisdiction or the order of a Court of another jurisdiction in respect of:

1. The personal and proprietary consequences of marriage or the termination of marriage;
2. Succession rights (whether testate or intestate) including the fixed shares of spouses or relatives;
3. The claims of creditors in an insolvency;
4. The imposition of any foreign tax or duty.

The Trusts Ordinance expressly provides that the Reciprocal Enforcement of Judgments Ordinance cannot be used to circumvent the above provisions.

### STRENGTHENED PROTECTION AGAINST CREDITORS

The confidentiality of the trust is further protected by the Fraudulent Dispositions Ordinance 1994. Designed to work primarily with the Trusts Ordinance 1994, it strengthens the degree of protection provided to the Anguilla asset protection trust against creditors claims.

The enactment strengthens the ability of the trustee to avoid creditor's claims by shifting the burden of proof of fraudulent transfer from the debtor to the creditor. Actions to set aside an alleged fraudulent transfer must be commenced in the Anguilla High Court within three years of the date that the assets were settled in the trust.

## INCENTIVES TO INVESTOR

The Government has granted duty free concessions on the importation of various materials and, in some cases, on vehicles. Such concessions could save the investor as much as 10% to 25% of his building material cost.

The granting of concessions is discretionary. Therefore, it is in the interest of the investor to discuss his project with Government before embarking on his project.

## FREEDOM TO IMPORT RAW MATERIALS

There is no restriction on the importation of raw materials. However such materials are subject to stamp duty ranging from 5 to 25% on the cost of goods imported into the island unless exempt from stamp duty by the Government of Anguilla.

## LABOUR LAWS

There are at present six statutes governing labour relations in Anguilla. These are:

- (1) The Labour (Minimum Wage) Act Cap 334
- (2) The Labour Ordinance
- (3) Trade Dispute (Arbitration and Injury) Act Cap 352
- (4) Workmen's Compensation Act
- (5) The Trade Union Act Cap 353
- (6) Fair Labour Standards Ordinance

Labour relations in Anguilla are very good. There has been no major trade dispute on the island for over 10 years. The main disputes on the island are from non-payment of wages by defunct overseas investors.

The minimum wage in Anguilla is approximately EC \$400/ US \$150 monthly for unskilled personnel.

All employers are required to pay 10% social security on behalf of each employee up to a maximum of EC \$1,200. 5% is taken directly from the employee's salary.

## RESIDENCE AND WORK PERMITS

All non-belongers of Anguilla are subject to immigration control on arrival in Anguilla. On arrival one may be permitted to remain on the island for a period of thirty days. Extension of the period may be granted after application to the Chief Immigration Officer.

Application for Residence Status has to be made to the Government of Anguilla. The granting of residence status is discretionary and is entirely a matter for the Government. However, the Government may consider genuine investors who are developing large projects that would bring into the

island large sums of foreign exchange and will also take into account the job creation aspects of the project.

A non-belonger of Anguilla shall not engage in gainful occupation without a valid work permit.

The Policy of the Government of Anguilla is to grant work permits only in cases where the required skills are not available in Anguilla.

Application for a Work Permit must be submitted to the labour officer. It is advisable that the employer or prospective employer pays a visit to the labour officer to discuss the skills required before making the application.

Documents to be submitted with the application are:

- (1) Three passport-sized photographs
- (2) Police record of good conduct (no more than 6 months old)
- (3) Evidence of qualifications
- (4) Medical Report

Prospective employers should register with the social security office as an employer before submitting application to labour officer on behalf of employee.

Fees payable per annum on issue of work Permits:

- (1) Ministers of Religion – EC \$200.00/US \$74.63
- (2) Domestic servants (employed in homes) – EC \$300.00/US \$111.94
- (3) Nurses and Teachers EC \$1,000.00/US \$373.13
- (4) Domestic and unskilled manual workers EC \$500.00/US \$186.57
- (5) Semi-skilled or skilled manual workers, tradesmen, secretarial and clerical workers EC \$1,000.00/US \$373.13
- (6) Professional persons, technical managerial and administrative persons EC \$2,000.00 /US \$746.27
- (7) Self -Employed persons (including professionals) EC \$3,500.00/US \$1,305.97

## POLITICAL AND ECONOMIC STABILITY

Anguilla was formerly part of the Associated State of United Kingdom with St. Kitts-Nevis-Anguilla. The Associated State of St. Kitts – Nevis - Anguilla was controlled by a central administration based in St. Kitts under the leadership of Robert L. Bradshaw. In 1967, through much dissatisfaction concerning the lack of economic development on the island, Anguilla declared its independence from the Associated State of St. Kitts-Nevis-Anguilla.

In 1971, Anguilla returned to colonial status under Britain. The island is now referred to as a British Dependent Territory.

Prior to 1967, Anguilla's major source of income came from salt, boat building, livestock, cultivation and financial help from Anguillians abroad. Today, Anguilla has the fastest growing tourist industry in the Caribbean region, and has diversified its sources of income, with yacht building, lobster fishing, sale of stamps and off-shore financial services.

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## BANKING

The Bankers Books (Evidence Act) Cap 8 and the Banking Act 1967 are the two statutes covering banking on the Island of Anguilla.

### BANKERS BOOK ACT

The purpose of the Bankers Book (Evidence Act) is to prevent random searches of banking records. To obtain an order from the Court under this Act one must state the specific account(s) the allegations are made against. The Court will not allow a fishing expedition of the bank records.

### REGISTRATION OF BANKS

All persons wishing to establish a bank on the Island of Anguilla must first seek the approval of the Ministry of Finance. The applicants must satisfy the Ministry that they have sufficient funds to capitalize the bank, that they or their staff have banking experience and that they are of good character. Once approved, and the fees paid, the Ministry instructs the Registrar of Companies to proceed with incorporation of the Bank.

To proceed, the Registrar must first approve of the name of the company. Once approved, the filing of articles of association is straightforward. Your attorney/company formation agent handles these matters on your behalf.

In practice, only banks which are already regulated in their own country are likely to be registered in Anguilla.

### CAPITAL AVAILABILITY

The banks on the island are conservative in their lending policies. However, with the rapid growth in the economy of the island, this pattern may change in the near future.

### 'A' CLASS BANK

In Anguilla there are two classes of banks; A Class and B Class. The 'A' Class license is granted for carrying on bank-

ing business with persons resident or temporarily visiting the island. They are allowed to accept deposits of money which may be withdrawn on demand. See page for list of 'A' Class Banks on the island.

#### 'B' CLASS BANK

The 'B' Class Bank is normally referred to as an off-shore bank. The off-shore bank is not allowed to do business with the general public on the island, although it may have a physical presence on the island and employ workers on the island. 'B' Class is usually formed for tax avoidance purposes, which is not an offence in most British territories.

#### OFF-SHORE BANK FEES

License fee for bank with office and staff on island:  
US \$4,000 approximately.

License fee for bank without office on island:  
US \$8,000 approximately.

N.B. These fees are payable annually. Registration and legal fees range from US \$9,000 to US \$11,000, depending on services requested. Please consult your local Attorney or the Inspector of off-shore banks and trust companies.

#### INSURANCE COMPANIES

##### Types of Insurance

Under the Insurance Act 1968 as amended by Insurance Act (amendment) Ordinance 1985 supported by Insurance Regulations 1970, insurance is divided into three classes:

- (1) Marine Insurance
- (2) Life Insurance
- (3) Non-Marine Insurance (all other forms of insurance business)

#### REGISTRATION

Application for Registration must be made to the Registrar of Insurance who also is the Registrar of Companies. The registrar will request the following information prior to registration:

- (1) A copy of the articles of association
- (2) Statement as to the type(s) of insurance to be carried on by the company. (If life insurance is one of the types then the Registrar will request a certificate by a recognized company stating that company is in good standing.)
- (3) Appointment of local agent

#### FEES

For further information please consult the Registrar of Insurance (Tel: (264) 497 2451) or your local Attorney.

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## HOW TO GET TO ANGUILLA

Anguilla is approximately 160 miles east of Puerto Rico, 900 miles south-east of Miami and six minutes flying time from neighbouring St. Maarten. American Airlines has daily flights to Puerto Rico. There are connecting flights on a regular basis by Liat, Air Anguilla, Tyden Air and Winair. Tyden Air and Air Anguilla offer charter flights with services which include taking care of your baggage. If you are tired after a long journey by air and need a change, the local ferry boats are efficient and fast, taking only 15 minutes to cross from French St. Martin to Anguilla.

### TRANQUILLITY

The island boasts some of the best beaches in the Caribbean and the warmest people one could find anywhere in the world.

After business is over, it is hard to resist the temptation to relax at one of the beautiful beaches. Anguilla is the ideal place for combining business and pleasure. But please remember business first. Do not forget to obtain a driving license before driving in Anguilla. (Most rental agencies supply temporary licenses).

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## CONTACTS

### BENJAMINE COMPANY SERVICES

Company Formation Agents

Tel: (264) 497-5270 Fax (264) 497-5271

### FIRST MANAGEMENT LTD

Company Formation Agents

Tel: (264) 497-2444 Fax (264) 497-5589

### CARIBBEAN JURIS CHAMBERS

Attorneys at Law and Notaries Public

Trademark Agents

Tel: (264) 497-3470 Fax (264) 497-3177

### CUBE CREDIT SERVICES LTD

Credit Recovery & Reference, Auctions & Real Estate

Tel: (264) 497-5170 Fax (264) 497-5070

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## Website

The most up-to-date version of this booklet will be on our website at <http://www.benjamine.ai> in PDF format.