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Updates to BVI legislation

The Mutual Legal Assistance (Tax Matters) (Amendment) Act, 2003 and The Partnership Act, 1996

On the 15th September 2014 the BVI updated the following two acts:

- The Mutual Legal Assistance (Tax Matters) (Amendment) Act, 2003 ('MLATA'); and
- The Partnership Act, 1996 ('the Partnership Act').

Exchange of information is becoming extremely important in the international world. The BVI has recently entered into an IGA with the UK and a Model 1B agreement with the US for FATCA. In addition, the BVI is subject to the Convention of Mutual Administrative Assistance in Tax Matters, which essentially means the BVI has an additional sixty exchange of information partners.

The effect of the changes is to assist the BVI in providing the required information to other governments under its various tax information exchange agreements and other exchange of information agreements that it has entered into. It also provides the mechanism for bringing the Model 1B agreement with the US for FATCA and the IGA with the UK into legal effect in the BVI.

How do these changes affect clients?

Registered Agents have always had a duty to reply to requests for information received through various organisations such as the BVI Financial Services Commission and the BVI International Tax Authority. This hasn't changed, but what was previously unclear was the extent of documents that could be requested. The amendments to both MLATA and the Partnership Act clarify what is meant by records and underlying documentation.

"Records and underlying documentation" includes accounts in relation to:

- All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- All sales and purchases of goods by the company; and
- The assets and liabilities of the company."

This information does not have to be held at the registered office and there is no formal requirement to file accounts. However, if a request is made by the Registered Agent, for whatever purpose, the above records must be provided to the registered office.

We would therefore recommend that companies and partnerships keep financial records containing the above information in a format that can quickly be provided to the Registered Agent upon request.