Anguilla Bahamas Isle of Man Cook Islands Vanuatu Bermuda

TAX HAVEN REPORTER™

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Bank Secrecy Acts and Confidentiality Ordinances

The first Bank Secrecy Act in the Caribbean was adopted in the Bahamas in 1964. Until then, Switzerland had always been the "renowned banking haven" – known throughout the world for its "private banking". The Cayman Islands government soon followed the Bahamas Bank Secrecy Act, with almost identical legislation a year later. The growth of the Cayman Islands into the top offshore banking center was spurred on originally by their Secrecy Act.

Today, all the tax havens have Secrecy or Confidentiality Ordinances. One exception is Bermuda, which never officially adopted a secrecy act – as Bermuda's "common law" and isolated "jurisdiction" had always served it well.

As it turned out, the Secrecy/Confidentiality Acts and Ordinances were a boost to offshore businesses for the Caribbean and Pacific tax havens, and for the most part, they still are.

While the original idea of Banking Secrecy was a good one for the offshore havens, it was not (and never will) well received by the US Treasury Department and their enforcement agency – the IRS.

While no one would argue that these countries have every right to adopt and promote their bank secrecy, it has caused problems, including attracting a criminal element; drug money laundering issues, and tax evasion issues for citizens from Industrial nations like the US, UK, Canada and Australia.

Bank Secrecy alone has worked well for the end users for over forty years, but under US law (and the laws of other industrialized nations – Japan, UK, Canada,

Australia) it is income tax evasion (a felony) just having an offshore bank account and not reporting the income on one's tax return. In the U.S., the mere existence of the bank and security accounts are reportable on a Form TD 90-22.1. Few Americans want to report.
http://www.ustax.ch/pdf/2005_f9022-1.pdf

But Secrecy and Confidentiality Ordinances offer protection against creditors and "others"; and where taxes alone are not the issue, bank secrecy along with "jurisdiction" add up to "asset protection', privacy and more.

Privacy: One author writes: **"**People can't find your offshore assets." The Bank Secrecy Acts in the Bahamas (Cayman, Anguilla and the BVI) are said to impenetrable.

Exception: All these countries have Mutual Legal Assistance Treaties with the United States and other nations which allow for cooperation in criminal matters (i.e., other than tax issues).

A crime such as embezzlement of assets from the coffers of a US company to "hidden bank accounts" offshore is going to end up in conviction and sentencing – most of the time.

The MLATs are applicable on the "Federal level" through the US Attorney's office (i.e., located in Miami, Atlanta, New York, L.A.). However, there is no "cooperation" available to private investigations under the MLAT – except through the use of local (Bahamian, Anguillian, Cayman) attorneys and the local courts of those countries. When such "investigations are pursued, they are often expensive and futile – as the tax havens have a reputation to protect, and here again – bank secrecy becomes an issue even in the courts.

U.S. Judgments are not recognized offshore: "The Supreme Court of the Bahamas does not recognize U.S. court judgments against a company incorporated in their jurisdiction." The same can be said for the other Caribbean havens – including Cayman, the British Virgin Islands, Anguilla, Nevis and St. Kitts.

Federal Courts have no jurisdiction: ***"****U.S. Federal Court judges have no power or authority outside the U.S. borders. IRS liens are not recognized offshore. Seizure Warrants from the U.S. Customs service are not recognized offshore."* – basically, the author of this statement is correct.

Another interesting protection you'll find offshore is American and foreign lawyers cannot practice law in these places. For example, here in the Bahamas you have to be a citizen of the Bahamas to become an attorney and practice in the Bahamian courts. Even the largest American law firm would need to hire a Bahamian law firm to pursue its litigation or claims

Notwithstanding all of the above, there is no "integration" between US tax law and the law of any foreign nation – excepting where there is an "income tax treaty".

Yet, the US Treasury Department has had a sympathetic "ear' and attitude to the offshore financial community's well being; but this too, has varied from "threats" to "bullying", to acceptance of their rights to exist and impose no taxes.

Use of tax havens by citizens from any industrial nation will always have its risks and rewards. Knowing your home country's tax laws is fundamental. An offshore firm or bank – no matter how large and reputable – simply isn't interested in your tax liability or problem.

The irony in all this is that the US Tax Code and the Canadian tax code and the UK tax code have tax provisions that are favorable to business. Not all outgoing or incoming transactions are "outlawed" or illegal.

With a tax code that is 55,000 pages long, the US law regarding the use of tax havens and offshore bank accounts is certainly discouraged.

http://www.fourmilab.ch/ustax/ustax.html

http://www.fourmilab.ch/ustax/www/sections.html

Yet, read the US Tax Code long enough and you will find some "green lights and loopholes". For example owning offshore real estate via an offshore company and trust can/might "shelter" rental income and capital gains from US taxation, if you "structure" your affairs and know the US Tax Code (especially the CFC legislation and revocable domestic US trust legislation – section 661 to sections 679.

See especially "Power to Revoke".

http://www.fourmilab.ch/ustax/www/t26-A-1-J-I-E-676.html

http://www.fourmilab.ch/ustax/www/t26-A-1-J-I-E-674.html.

There's a Foreign Earned Income Exclusion of $80,000 you can exclude as salary, and the US payer of your salary can still get the deduction for its income tax return, if you know the law.

http://www.irs.gov/businesses/small/international/article/0,,id=97130,00.html

But, generally, most avenues that Americans, Canadians and UK citizenry pursue is wishful thinking, so be careful.

- $1.2 trillion dollars on deposit in Cayman Banks - up 10% in 2005 says Cayman Government?
- Sixty percent of these monies comes from US investors says Manhattan District Attorney Robert Morgenthau.
- Did you know there are two online stock broker firms located in a no tax haven (offshore) - and both are 100% owned by the Bank of New York?
- Did you know that non-resident aliens (including foreign companies) can trade "publicly traded stocks" (i.e., NYSE, NASDAQ, AMEX) under the tax code and not owe capital gains tax?
- "One of the most effective applications of offshore trusts is in an ownership combination with a limited company." - Richard Graham-Taylor, partner Ernst & Young, Grand Cayman (January 1990).
- 2005 revenues for Ernst & Young worldwide were $19 billion.
- **The Old Moneyed Dupont Nemours and Roosevelt Families Buy a Tax Haven**
- http://tomazz1.wordpress.com/
- http://www.ncpa.org/abo/staff/pdupont.html
- http://www.guerrillanews.com/blogs/1839/The_history_of_the_Du_Pont_weapons_industrial_complex

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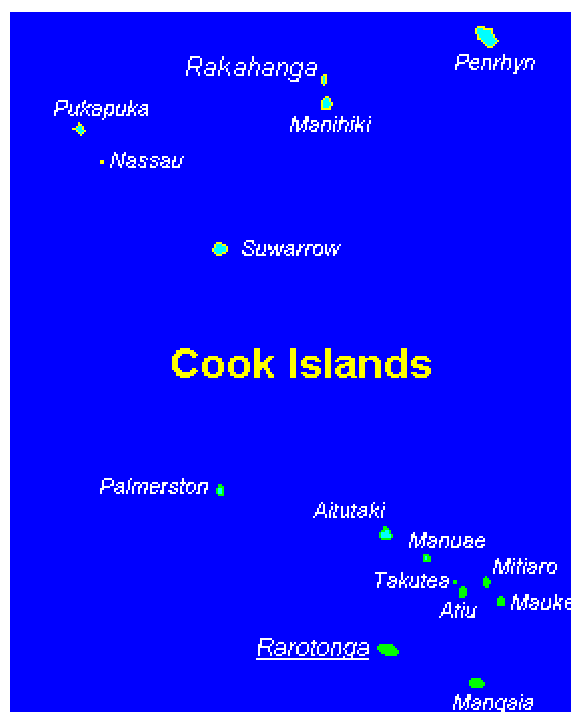

The Cook Islands comprises 15 islands spread over 850,000 square miles (2.2 million square km) of ocean smack in the middle of the South Pacific between Tonga to the west and the Society Islands to the east. The Cook Islands consists of two main groups, one in the north and one in the south. The southern group is nine "high" islands mainly of volcanic origin although some are virtually atolls. The majority of the population lives in the southern group. The northern group comprises six true atolls.

Getting there: Air New Zealand is the premier carrier. It operates several weekly scheduled flights from New Zealand, Tahiti, Hawaii, Los Angeles and Fiji.

Cook Islands – one of several Pacific Rim tax havens

THE Cook Islands offshore industry was conceived in 1981 as the result of a joint mission between the Cook Islands Government and the Cook Islands financial services industry.

Note: The US government has taken particular aim at the Cook Financial Services Industry. See article below for details.

The industry has developed on the foundations set by legislation providing for international companies including offshore banks, insurance companies and international trusts. All offshore business carried on from the Cook Islands must be channeled through registered trustee companies.

The industry can provide a comprehensive range of trustee and corporate services to the offshore investor with the attraction that the tax rate for all offshore entities is zero, guaranteeing tax neutrality.
The new emphasis, as with other offshore jurisdictions, is no longer on being just a tax haven.

The Government of the Cook Islands is committed to the continued success of the industry whose contribution to the Cook Islands economy is now second only to tourism. The trust companies have paid annual fees to the Government of approximately $2 million for the past few years.

That revenue base is increasing as the industry continues to grow, servicing markets in Asia, Europe and the Americas. The outlook for the industry is good. It will continue to be the second largest contributor (second to tourism) to government revenues for the foreseeable future.
There are approximately 70 employees of trust companies in the Cook Islands. Of these, in 1999, 52 were Cook Islanders. Seven are lawyers and four are qualified accountants. The offshore industry has a reputation for being progressive and innovative and is at the forefront of offshore industries worldwide. There are six licensed trustee companies in the Cook Islands.

Asiaciti Trust Pacific Ltd
HSBC Trustee (Cook Islands) Ltd
Global Network Trust (Cook Islands) Ltd
Southpac Trust Ltd
Portcullis TrustNet (Cook Islands) Ltd
CI Trust Corporation

United States Department of the Treasury - Financial Crimes Enforcement Network

(posted by US Treasury in 2000)
by James F. Sloan - Director

Banks and other financial institutions operating in the United States are advised to give enhanced scrutiny to all financial transactions originating in or routed to or through the Cook Islands or involving entities organized or domiciled, or persons maintaining accounts, in the Cook Islands. The need for such enhanced scrutiny is discussed in the remainder of this Advisory.

The Cook Islands, located in the South Pacific Ocean, is an internally self-governing country in free association with New Zealand. Approximately 14,000 Cook Islanders, who are citizens of New Zealand, live on the country's many coral atolls and volcanic islands.

The Cook Islands has been developing an offshore financial services sector. Offshore entities in the Cook Islands include 30 offshore banks (seven of which are authorized to receive deposits from the public), approximately 6,000 International Business Companies, and approximately 2,000 international trusts, all regulated by the Office of the Commissioner for Offshore Financial Services. All of these offshore entities are exempt from taxation, duty liabilities, and most other restrictions and responsibilities imposed by Cook Islands domestic laws.

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of the Cook Islands suffers from serious systemic problems.

Money laundering is not a criminal offense in the Cook Islands.

Offshore banks licensed by the Cook Islands are not required to verify the identity of customers and are not prohibited from establishing anonymous accounts.
Offshore banks licensed by the Cook Islands are not required to retain customer identification or transaction records.

Financial institutions in the Cook Islands are not required to report suspicious transactions.

Ownership records of Cook Islands offshore entities may be kept in nominee form.

Stringent secrecy provisions prevent disclosure of relevant information concerning offshore companies, including bank records, except in limited circumstances.
These deficiencies, among others, have caused the Cook Islands to be identified by the Financial Action Task Force on Money Laundering (the 'FATF') as non-cooperative 'in the fight against money laundering'. The FATF, created at the 1989 G-7 Economic Summit, is a 29 member international group that works to combat money laundering.

The Cook Islands is considering legislative changes that could remedy at least some of the deficiencies described above. It is also considering establishing a domestic financial intelligence unit for counter money laundering purposes and has sponsored a proposal to the South Pacific Forum for the possible establishment of a regional financial intelligence unit.

Nonetheless, the legal, supervisory, and regulatory systems of the Cook Islands at present create significant opportunities and tools for the laundering and protection of the proceeds of crime, and allow criminals who make use of those systems to increase significantly their chances to evade effective investigation or punishment. The Cook Islands' commitment to bank secrecy and the absence of any supervisory or enforcement mechanisms aimed at preventing and detecting money laundering increase the possibility that transactions involving Cook Islands offshore entities and accounts will be used for illegal purposes.

Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction originating in or routed to or through the Cook Islands, or involving entities organized or domiciled, or persons maintaining accounts, in the Cook Islands. A financial institution subject to the suspicious transaction reporting rules contained in 31 C.F.R. 103.18 (formerly 31 C.F.R. 103.21) (effective April 1, 1996), and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction (of $5,000 or more, U.S. dollar equivalent) requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious transaction reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny does not mean that U.S. financial institutions should curtail legitimate business with the Cook Islands.

To dispel any doubt about application of the 'safe harbor' to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation, for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C. 5318(g)(2) and (g)(3).

United States officials stand ready to provide appropriate technical assistance to Cook Islands officials as they work to remedy the deficiencies in the Cook Islands' counter-money laundering systems that are the subject of this Advisory.

James F. Sloan
Director

CHARACTERISTICS OF THE COOKS ISLANDS JURISDICTION.

The Cook Islands economy is primarily tourism based however there has been a substantial expansion in the offshore industry with the advent of innovative and progressive legislation to facilitate the establishment of a variety of offshore structures including international business companies, offshore banks, offshore insurance companies and wealth preservation trusts.

In September 2000 the Cook Islands parliament passed the Money Laundering Prevention Act, which provides for the setting up of a Money Laundering Authority, to consist of the government's financial secretary, the commissioner for offshore financial services and the commissioner of police. The trustee companies carrying on business in the Cook Islands are a mix of multinational and established private and public companies which each provide a representative to the Cook Islands Trustee Companies Association ("CITCA").

A common misconception about the Cook Islands is that its offshore jurisdiction is a newcomer to the offshore financial scene. The trust companies in the Cook Islands are experienced and knowledgeable with an unblemished record of competency, thoroughness, and integrity unmatched by any other country in the world. The underlying legal system is based on English Common Law as applied to the islands by the Cook Islands Act of 1915. Or, for the latest news relating to the offshore industry, please refer to our newsletters section.

The best illustration of the Cook Islands innovative approach is seen in the International Trusts Act, 1984 ("ITA") and more specifically in the 1989 and 1996 amendments thereto. Cook Islands Trust and Banking Corporation.

Any claimant must commence new proceedings in the Cook Islands, subject to Cook Islands law. The Cook Islands as an offshore financial centre provides an opportunity to preserve wealth through vehicles such as corporations and trusts. Cook Islands Trust and Banking Corporation.

With the passing of the Financial Services Act 1998 all applications for licenses now go before the Commissioner for Offshore Financial Services and not the Monetary Board which used to consist of a number of Government ministers. The advantages of a Cook Islands International Trust are. The Cook Islands should re-activate the supervision scheme for onshore banks, not only for the purpose of money laundering prevention

but also for prudential considerations. The Cook Islands economy is primarily tourism based however there has been a substantial expansion in the offshore industry with the advent of innovative and progressive legislation to facilitate the establishment of a variety of offshore structures including international business companies, offshore banks, offshore insurance companies and wealth preservation trusts.

THE COOK ISLANDS OFFSHORE JUISDICTION

Offshore Jurisdiction

The Cook Islands' offshore jurisdiction was conceived in 1981 when the Cook Islands' Government and the Cook Islands' financial services industry embarked on a legislative and infrastructural programme to create the pre-eminent offshore centre of the South Pacific. Their mission was to create an offshore jurisdiction internationally recognized for its technical innovation, service and professionalism and not to merely emulate the technical achievements of other jurisdictions.

Characteristics of the Jurisdiction

The Cook Islands' offshore jurisdiction is well established and has the characteristics necessary to meet the offshore corporate, trustee and financial requirements of the international business community. Some of the more significant of these characteristics are described below:

Political Stability and Independence

The Cook Islands became a self-governing country under a written constitution in 1965. It has a Westminster parliamentary system and a legal system that closely reflects that of most Common Law jurisdictions. General elections are held every five years under a system of universal suffrage. Since independence only two major parties have formed governments. Both of these are fully supportive of the offshore industry.

The Cook Islands is a sovereign state and has 100% sovereign law making authority. It is completely independent from any other jurisdiction although it continues to have a close relationship with New Zealand.

The business language of the Cook Islands is English. The Cook Islands has modern communication systems that are continually being updated and improved. The Cook Islands is 10 hours behind Greenwich Mean Time and in the same time zone as Hawaii.

Tax Neutrality

At the very least everyone using the services of an offshore jurisdiction will be looking for tax neutrality. In the Cook Islands the tax rate for all offshore entities is zero.

Legal System

The legal system closely reflects that of New Zealand and other British Common Law countries. There is a hierarchy of courts comprising a High Court and Court of Appeal. The ultimate appellate court is the Privy Council in London sitting in right of the Cook Islands. There is a long history of respect for the rule of law.

Technical and Innovative Legislation

The Cook Islands offshore jurisdiction has been built upon the foundation provided by four pieces of legislation. The International Companies Act, 1981-82, the International Trusts Act, 1984, the Offshore Insurance Act, 1981-82 and the Offshore Banking Act, 1981. Each of these statutes is an example of modern technical innovative legislation designed to meet the requirements of clients and to keep the Cook Islands at the forefront of the offshore industry.

Due Diligence Requirements

Due diligence procedures for the incorporation of companies are being implemented in most offshore jurisdictions. The Cook Islands has introduced such procedures. These procedures are viewed as a positive step that will help to protect the reputation of the Cook Islands. Ultimately this will be for the benefit of persons with proper uses for offshore services.

All information supplied will be held confidentially in the Cook Islands.

Company Incorporation and Registration

Flexibility
The ICA allows flexibility in the structure of international companies which also provides for administrative ease.

Structure:

Only one shareholder required
No minimum share capital requirement
Shares can be in any major world currency
Shares do not have to have par value
Bearer shares are issuable

Administration

Strict confidentiality
Shareholders can agree to waive AGMs and appointment of an auditor
Accounts do not have to be filed
Annual Returns must be filed. A Cook Islands trustee company prepares and files the documentation
Effective director and shareholder resolutions may take place via phone or fax for signing
Meetings do not have to be held in the Cook Islands
Minimum requirement of one director
No requirement for Cook Islands resident director
Redomiciliation into or out of the Cook Islands is allowed
Companies can be liquidated

Services

A full range of administrative and accounting services to international and foreign companies are available from any Cook Islands trustee company.

Services include:

Provision of standard memorandum and articles of association
Incorporation and annual renewal
Provision of resident secretary and the registered office
Provision of nominee shareholders
Provision of registered directors
Maintenance of accounting records, preparing financial statements and conferring with auditors as required.
Provision of share registrar and transfer agent. Opening and administration of bank accounts as required.
Liquidation of companies as required.

Anguilla's Confidential Relationships Ordinance 1981

BANK CONFIDENTIALITY IS PROTECTED BY LAW

Anguilla values its well-earned reputation as a law-abiding and well-regulated jurisdiction, with a favorable business climate. Strict provisions have been enacted to guarantee the confidentiality of sensitive business records.

Anguilla's Confidential Relationships Ordinance 1981 (updated again in 1998 with a newer supporting Ordinance) is a mirror to Montserrat's Confidential Information Ordinance, 1985. (see Montserrat's Ordinance, 1985 - below)

The Confidential Relationships Ordinance 1981 provides stringent penalties for the improper release of confidential information, whether by private individuals or public officials. The Ordinance does not protect against inquiry with respect to criminal activity considered a serious offence in Anguilla. The governments of Anguilla and the United States have ratified a mutual legal assistance treaty that extends the exchange of information between them regarding activities considered criminal in both jurisdictions. The treaty is aimed specifically at keeping Anguilla free of the drug-related and money-laundering taint that has afflicted some other jurisdictions.

As the island has neither income tax nor currency exchange regulations, foreign currency and tax offences cannot be investigated in Anguilla. There are no tax treaties between Anguilla and any foreign country and, unlike many of its competitors, Anguilla does not have agreements with any country to share fiscal information.

Anguilla's Confidential Relationships Ordinance 1981 was reinforced as recently as 1998, and banking confidentiality is respected in this Caribbean tax haven, just like the Cayman Islands and the British Virgin Islands.

Just one hundred and fifty miles east of Puerto Rico and close to the Virgin Islands, Anguilla is famous for its pristine beaches, abundant marine life, fine dining, and world-class hotels. Only six miles north of the French/Dutch island of St. Martin/St. Maarten, Anguilla enjoys through its neighbors regularly scheduled links serviced by several major airlines, including KLM, Lufthansa, Air France, British Airways, and American Airlines. International direct dialing 264 + 497 + four digits provides immediate telephone or facsimile contact.

In April 1993, the Mokoro Report identified the financial services sector as a principal adjunct to Anguilla's tourist-based economy. Adopting that Report, the Anguillian and British governments embarked upon a thorough review and rewriting of the island's financial services legislation. The extensive legislation enacted in January of 1995 is the result.

In the case of an international business company, articles of incorporation need only contain the company's and incorporator's names, the registered office and agent, and essential details as to the nature, but not the ownership, of the company's shares. We have an office in Anguilla, and we provide all of the above services. Call me at 242-327-7359 with your questions. - 9AM to 5PM - New York time zone is best.

Anguilla is the only Crown/Overseas Territory that has not had to sign the Tax Information Exchange

Agreement (TIEA) with the United States. Bermuda, Cayman, the BVI, Antigua all have TIEA's with the US.

It is my belief that it was the desire of all (i.e., the US and UK Treasury) to let this Commonwealth tax haven's financial sector grow – rather than burden it with a TIEA.

The British government has prompted the growth of Anguilla by delivering an on-line registration service in the 1990's and monitors legal issues for its tax free status within the "commonwealth" - along with the local governance.

Anguilla is self governing along the same lines and traditions as Cayman and Bermuda.

Thomas Azzara
New Providence Estate Planners, Ltd.
(Consultants)
54 Sandyport Drive
P.O. Box CB 11552
Nassau, Bahamas
Fax/phone: (242) 327-7359
email: taxman@batelnet.bs

website: http://www.bahamasbahamas.com/

Montserrat's Confidential Information Ordinance, 1985

Montserrat has been rocked by volcanic eruptions since the 1990's, and is not currently the best financial center to consider, but it's "Confidentiality Ordinance has been a "model" for the Eastern Caribbean nations.

AN ORDINANCE TO REGULATE THE DIVULGENCE OF INFORMATION IMPARTED UNDER CONDITIONS OF PROFESSIONAL CONFIDENCE.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council of Montserrat and by the authority of the same as follows:

2. In this Ordinance, unless the context otherwise requires: "bank" and "financial institution" and "International Business Companies" have the meanings respectively ascribed to those terms by section 2 of the Banking Ordinance, 1978, and section 5 of the International Business Companies Ordinance, 1985, No. 19 of 1985;

"Confidential information" means information received by a professional person from or in respect of a principal concerning any property in which the principal has an interest and which the recipient of such information is not authorized by the principal to divulge;

"divulge" means without the authority of the principal express or implied, to disclose or communicate to any person not entitled to such disclosure or communication and includes unauthorized communications to persons at large;

"normal course of business" means the ordinary and necessary routine involved in the efficient carrying out of the instructions of a principal, including compliance with all relevant laws and legal procedures and the routine exchange of information between financial institutions and/or International Business Companies;

"principal" means a person who employs or instructs a professional person in the normal course of business matters relating to any property of the principal;

"professional person" means a bank or other financial institution, a barrister or solicitor, an accountant and every person subordinate or in the employ or control of such person or institution for the purpose of his or its professional activities;

"property" means every present, contingent and future interest or claim, direct or indirect, legal or equitable, positive or negative, in any money's worth, or any real or personal property (movable or immovable), and all rights and securities thereover and all documents and things evidencing the same or related thereto;

3. (1) Subject to subsection (2), this Ordinance shall apply to all confidential information as defined in this Ordinance which originates in or is brought into the Colony and to all persons coming into possession of such information, whether professional persons or not.
(2) This Ordinance shall not apply to the seeking, divulging or obtaining of confidential information -
(a) in compliance with directions of the High Court given in accordance with the provisions of section 4;
(b) by or to a professional person acting in the normal course of business or with the consent, express or implied of the relevant principal;
(c) by or to a police officer of the rank of Inspector or above investigating an offence committed or alleged to a have been committed within the Colony;
(d) by or to the Minister responsible for finance, the Financial Secretary, or the Attorney General;
(e) generally, in accordance with the provisions of this or any other Ordinance;

4. (1) Whenever a person intends or is required to give in evidence in, or in connection with any proceeding being tried, inquired into or determined by any court, tribunal or other authority, and confidential information within the meaning of this Ordinance, he shall before

doing so apply for directions and any adjournment necessary for that purpose shall be granted.
(2) An application for directions under subsection (1) shall be made to and heard and determined by, a Judge of the High Court sitting alone and in camera. At least seven days' notice of such application shall be given to the Attorney General who is a party to the proceedings in question. The Attorney General may appear as amicus curiae at the hearing of the application and any party on whom notice has been served as aforesaid shall be entitled to be heard thereon, either in person or by counsel.

3) Upon hearing an application under subsections (1) and (2) the Judge shall direct -
(a) that the evidence be given; or
(b) that the evidence not be given; or
(c) that the evidence be given subject to conditions to be specified by him whereby the confidentiality of the information will be safeguarded.

(4) In order to safeguard the confidentiality of evidence ordered to be given under subsection (3)(1) a Judge may order one or more of the following;
(a) that divulgence of evidence be restricted to certain named persons;
(b) that the evidence be taken in camera;
(c) that reference to names, addresses and descriptions of particular persons be by alphabetical letters, numbers or symbols representing such person, the key to which shall be restricted to persons named by the judge.

5. (1) Subject to the provisions of section 3 (2), and person who -
(a) being in possession of confidential information however obtained -
(i) divulges it; or
(ii) attempts, offers or threatens to divulge it;
(b) willfully obtains or seeks to obtain confidential information to which he is not entitled,

shall be guilty of an offence and liable on summary convictions to a fine not exceeding $50,000 or to imprisonment not exceeding 2 years or to both such fine and such imprisonment.

(2) Any person who commits an offence under subsection (1) and receives or solicits on behalf of himself or another person in the course of such offence any reward from any person shall be liable to a further fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both such fine and such imprisonment and also to forfeiture of the reward if it was received by him.

(3) Any person in possession of confidential information who without the consent of the principal makes use thereof for the benefit of himself or another shall be guilty of an offence and liable on summary conviction to the penalty prescribed in subsection (2) and for that purpose any profit accruing to such person out of such transaction shall be deemed to be a reward.

(4) Any professional person, entrusted as such with confidential information, who commits an offence under subsection (1), (2) or (3) in respect of such information shall be liable to double the penalty prescribed in each of those subsections respectively.

(5) Subject to the provisions of section 3(2), any bank which gives a credit reference in respect of a customer without the express authority of such customer shall be guilty of an offence under subsections (1) and (4) hereof;

(6) Every person who receives confidential information by virtue of the provisions of subsection 4(2) shall be as fully bound by the other provisions of this Ordinance as if such information were entrusted to him in confidence by the principal.

6. The Governor-in-Council may make regulations for the administration of this Ordinance.

7. No prosecution may be instituted under this Ordinance without the express consent in writing of the Attorney General.
8. The Confidential Information Ordinance, 1980 is hereby repealed.

H.A. FERGUS (Speaker)

Passed the Legislative Council this 19th day of December, 1985.

E.R. Kirnon Ag. Clerk of the Council

Anguilla Constitution Order 1982 S.I. 1982 No. 334 15/12/2000 3

http://www.gov.ai/images/Anguilla%20Const.pdf

S.I. 1982 NO. 334
ANGUILLA
THE ANGUILLA CONSTITUTION ORDER 1982
Made.. 10*th March* 1982
Coming into Operation .... 1*st April* 1982

At the Court at Buckingham Palace, the 10th day of March 1982
Present,
The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 1(2) of the Anguilla Act 19801

and sections 6(1) and 17(4) of the West Indies Act 19672, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. (1) This Order may be cited as the Anguilla Constitution Order 1982.

(2) This Order shall come into operation on 1st April 1982.

Constitution of Anguilla and revocation

2. (1) The Schedule to this Order shall have effect as the Constitution of Anguilla as from the commencement of this Order; and the Anguilla (Constitution) Order 19763 is revoked with effect from such commencement.

(2) The Schedule to this Order may be cited as the Constitution of Anguilla and in sections 4, 5, 6, 7 and 8 of this Order it is referred to as 'the Constitution'.

(3) References in any law made before the commencement of this Order to the Anguilla (Administration) Order 1971, to the Constitution of Anguilla established by the Anguilla (Constitution) Order 1976 (hereinafter referred to as 'the former Constitution') or to any particular provision thereof shall be construed, in relation to any period beginning at or after the commencement of this Order, as references to the Constitution or, as the case may be, to the corresponding provision thereof.

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Thomas Azzara
New Providence Estate Planners, Ltd.
(Consultants)
54 Sandyport Drive
P.O. Box CB 11552
Nassau, Bahamas
Fax/phone: (242) 327-7359
www.bahamasbahamas.com

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