

MINISTER OF FINANCIAL SERVICES

ON THE OCCASION OF

THE NASSAU CONFERENCE

NASSAU, BAHAMAS, 16TH OCTOBER, 2013

“THE SHIFT HAS OCCURRED:

THE NEW THINKING ON TAX AND TRADE”

Ladies and Gentlemen,

It is indeed a pleasure for me to address you today at the Nassau Conference presented by the Association of International Banks and Trust Companies in the Bahamas. For the second year in a row, the Ministry of Financial Services has agreed to be the lead sponsor of The Nassau Conference. We choose to do so for a few reasons. We certainly view The Nassau Conference as an event that promotes continuing investment in education of financial services professionals. We also are pleased to, for a second year in a row, to partner with AIBT to advance one of the initiatives I am most proud of, the provision of opportunities in the financial services industry for students at the College of the Bahamas seeking to develop their careers, much like many of you have done.

Today we have students from the College of the Bahamas who have been given the opportunity to attend the Nassau Conference at no cost. Students, please identify yourselves. Secondly, my partnership with AIBT has allowed for a summer internship program to be offered to COB students at institutions in the financial services field. These real world experiences for future professionals in our industry is invaluable

to their professional development. AIBT also offers a language immersion program in Mexico for COB students to advance their opportunities. This partnership between AIBT and my Ministry has made a lasting impression on the lives of these young students. Before I begin my presentation, I would just like to ask two of the students to tell you the impact that the partnership has had on them. (3 – 5 minutes)

Petra Armbrister – intern at St. James Bank and Trust

Justin Knowles – Spanish immersion program in Mexico

The theme perfectly captures the momentum of the day. We at the Ministry of Financial Services have, for some time now, sensed this shift. A shift in the way we do business; a shift in how we position ourselves; a shift in world expectations and a shift in expectations for ourselves. We are pleased to be ahead of the curve, in our thinking and in our response to the world – but we have noted the shift nonetheless.

No room for complacency

The development of The Bahamas as a financial centre is a story that makes me proud as a Bahamian. It makes me proud as a citizen of a small, sovereign island nation, that our forefathers were able to transform an economy into this vibrant financial center. Our history as a financial centre shows progressive, forward-looking vision, constantly developing based on innovation. Our traditional comparative advantages, together with the common law tradition, an attractive legislative and cost structure and an investor friendly business climate, catapulted The Bahamas to a household name as an international financial and business center.

The Bahamas has seen tremendous benefit, in terms of incomes from this development strategy. We saw the development of an upwardly

mobile middle class. We saw the quality of life and standards of living breaking away from our Caribbean peers. Today, The Bahamas is considered a wealthy economy – a high-income country.

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Defining the Shift

The ‘Shift’ today, however, requires continued innovative activity in order to maintain and grow our centre. Gone are the days of The Bahamas competing against Cayman and Isle of Man. The Shift has meant that The Bahamas must now compete against New York and Geneva.

Ladies and Gentlemen, the “shift” requires for a Forward-Looking Vision that includes change. As I said, I think that we have been ahead of the curve. As such over the last decade, industry has been moving with the tide to reposition The Bahamas. However, this Government is committed to tackling the changes that are necessary head on, to ensure that our growth trajectory continues to lead to a brighter future. This mandate takes vision, it takes action, it takes cooperation between the private sector and the Government and it takes LEADERSHIP to Succeed in a Shifting World.

The changes which are occurring in our industry require serious introspection. We have to begin at the beginning – why do clients come to The Bahamas? The last 20 years have shown us that the answer is not what some in the international arena would have us to believe.

Our clients are not coming to The Bahamas because of what has now become irreverent terminology. Words like “secrecy” or “tax minimization”. No, our clients come and continue to come The Bahamas because of a host of many special assets that we offer as a

jurisdiction. I speak of assets such as sovereignty; that is the ability to make our own decisions, in our own best interest within our country.

I speak of the fact that we have sensible, flexible regulation and the commitment of The Government from the Attorney General's Office and the Ministry of Finance and the Regulators to ensuring that we are top in class with respect to our international standards and commitments. We are committed to regulatory excellence and efficiency. These are important selling points to the clients that invest in our jurisdiction.

Finally, I speak of the close collaboration between private sector and the Government that enables us to introduce new legislation and create new products to grow the sector. I cannot overstate the importance and the value that I place on my interaction with industry. It makes no sense to drive this ship from the top down. It is imperative that my Ministry is in tuned with industry to understand its needs and wants. Our close collaboration with the AIBT is evidence of this.

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Tax and Trade

Tax - The shift and our response to the shift in the industry is largely a result of the evolution of international tax issues, policies, and assaults. We have seen the international tax policy reform progressively develop in the international multilateral organizations through the years. We have seen the United States has advanced its laws and tax compliance requirements in tax matters through FATCA. You will hear later today a panel on FATCA from experts so I won't go into a detailed discussion on it.

As a result of the FATCA and aggressiveness of the United States in this regard, we see momentum internationally for multilateral agreements on automatic tax exchange. It was 5 years ago when we acknowledged the

aggressive position of the international community, and especially the OECD in its push for tax transparency and compliance. In July 2008, the G8 Heads of State and Government urged *“all countries that have not yet fully implemented the OECD standards of transparency and effective exchange of information in tax matters to do so without further delay, and encourage the OECD to strengthen its work on tax evasion and report back in 2010.”*

We have recently had a G8 meeting in London, and a G20 meeting in Russia where automatic tax exchange has been a primary agenda item for discussion and agreement. In the communiqué in the G8 meetings we heard the declaration that *“We commit to establish the automatic exchange of information between tax authorities as the new global standard, and will work with the Organisation for Economic Cooperation and Development (OECD) to develop rapidly a multilateral model which will make it easier for governments to find and punish tax evaders. On tax avoidance, we support the OECD’s work to tackle base erosion and profit shifting. We will work to create a common template for multinationals to report to tax authorities where they make their profits and pay their taxes across the world.”*

At the recent G20 meetings we heard a similar declaration of commitment to this philosophy. The G20 Declaration states a firm commitment when it provided *“Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015.”*

The international community is speaking with a thunderous voice in this regard, the question remains whether it can be practically achieved. What is being proposed is much different than FATCA, although FATCA clearly inspires their plan. What is proposed is a multilateral attempt between Governments to achieve what the United States is attempting achieving through the private sector. If the international community is successful in this regard, which I personally have my own doubts, then tax compliance and reporting will drastically increase. Imagine extending what you have been putting in place to all G20 countries, an impractical measure for sure.

We heard today a discussion regarding the new Base Erosion and Profit Sharing Action Plan by the OECD to minimize the international tax planning opportunities for international businesses. Some say, and certainly this morning Francesco Vanacore, have predicted that this might be the most important international tax initiative affecting the global financial services industry.

Trade – So what does all of these international tax policy adjustments mean for the Bahamas, and more specifically, in the context of trade. I believe that the Bahamas is in the best position to actually take advantage of the changes in tax policy. I began by describing some of our assets, well it is these assets that will cause us to proposer an advance, and especially in the context of trade, and particularly trade in services.

Trade in Services merely refers to the sale and delivery of a service between a producer and consumer that are, in legal terms, based in different countries, or economies. Tourism and financial services are examples of trade in services industries. People say the Bahamas is not

a trading country, well that can't be further from the truth, we may be proportionately one of the top trade in services jurisdictions.

So how does this shift in tax policy internationally connect with the advancement of our trade in services? I typically speak about the Bahamas as an international financial center that offers a diversified offering of product and services to support the products. Many would hear me proclaim that unlike some of our regional competitors, the Bahamas is not a commodity jurisdiction, we don't pride ourselves on having the most companies on our register, or the most funds in the jurisdiction. What we do pride ourselves on is that we have the most diversified operating entities in all sectors of the financial services industry, operating banks, operating trust companies, operating family offices, operating investment advisors and managers, operating fund administrators, operating captive insurance managers. I can go on and on. All of these operating companies, supporting our diversified product offering as a jurisdiction, demonstrates the credibility and substance of our industry, is proof that we are a legitimate and credible trade in services jurisdiction.

The fact that we have structured our financial services industry in this fashion provides opportunity and insulation against certain of the multilateral tax initiatives we have heard about. Us tax attorneys operate under the belief and philosophy of "substance over form". This is a fundamental foundational element of tax planning and international tax administration. We in the Bahamas, our international financial services industry, our trade in services is evidence of substance over form. The Bahamas, a country of substance and credibility, is perfectly positioned to link the developments in tax policy adjustments to trade in services, we have done it for decades, and it is only going to grow as a result of the multilateral tax initiatives.

We heard this underlying philosophy on the way forward by Francesco Vanacore where he identified as one of the 3 options on the way forward positioning a jurisdiction for active business. The Bahamas is proof of this philosophy – develops substance over form.

This philosophy can be extended to our client planning, not just the commercial substance over form. I had the opportunity to speak on a panel in Montevideo, Uruguay at STEP Latam last week. The point was made on my panel that, especially as it pertains to the client in Latin America, that the financial management of the client should be tied to, and a part of the business and external trade elements of their respective commercial activity. The discussion was to utilize assets of the Bahamas, such as the free trade zone that we know as Freeport, our tax advantaged position and location as a preeminent logistics hub to attract not only the client from a wealth management perspective, but also a component of their business operations. The argument is that for the client it is a natural connection between the business of the client and the financial management of the client, and ultimately the residence of the client. One would think of this in the context of connecting trade in goods industries and wealth management of the principal, but this is likewise true for clients who are service providers.

We see this today. We have high net worth individuals who began utilizing the Bahamas as a jurisdiction for banking, or for use of our products. Their involvement with the jurisdiction evolved from use of the jurisdiction, to being a part of the jurisdiction. Many high net worth individuals have decided to take up residency here in the Bahamas, and have decided to establish physical presence operations here in the Bahamas connected to their respective services businesses.

We see these individuals with established family offices to manage their investments. We have seen these clients of the Bahamas establish

related businesses, for example those in the investment fund and private equity businesses have established their own financial and corporate service providers to manage their company structures and corporate obligations related to their private equity and investment businesses. These and similar institutions and clients also look to establish physically present fund administrator institutions to likewise manage their structures that are a fundamental component of their respective global businesses. Our business lines are likewise products of our financial services industry, physical establishment products, products of substance and credibility.

Conclusion

Upon first reading the topic I was asked to speak to I sat back and wondered how to address it. The more I thought about it, the more I thought about the Bahamas as a preeminent international financial and business center, the more I realized that the Bahamas is the perfect example of the connection between tax policy evolution and trade, and particularly trade in services. In an environment where all are intimidated by the tax policy initiatives we have heard much about, those jurisdictions where you find substance over form, where you find credibility, where you find diversity of industry you will find success and longevity. In this environment that is intimidating, success is defined by what we have, the international financial and business services industry of the Commonwealth of the Bahamas.

We continue to be committed, as the Ministry of Financial Services, to a pursuing a modern, “development-focused” and progressive financial services industry, constantly evolving within the context of substance over form. Ladies and Gentlemen, this is part of the “Shift”. Openness to trade and to international partnerships created our centre. Continued openness will sustain and propel our centre. These are the facts of this Shift that we discuss today, these are the defenses against the evolving and intimidating international tax developments.

In this regard, the Bahamas Government is committed to working closely with the international agencies in this work to shape a sensible approach for ensuring tax compliance, while respecting credibility and diversity of industry. As a responsible financial centre, we must be at the table to discuss these matters and we are committed to not only adhering and meeting international regulatory requirements, but also participating in their design. The Bahamas is well positioned, is the leader, and is poised for significant growth in the industry, because of who we are and what we are.

Photo Courtesy of Eric Rose