



GOVERNMENT OF BERMUDA

The Ministry of Finance

Ministry of Finance Headquarters

Ministerial Statement

To the House of Assembly

By

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Deputy Premier and Minister of Finance

The International Cooperation Tax Information Exchange Agreements

Date: 18nd March, 2009

File #: **IB 10A 17(2)**

Mr. Speaker, in light of the world focus on tax issues and the global financial crisis I will address the House on Bermuda's active participation in advancing international cooperation in the area of tax. There is no question that Bermuda is a jurisdiction which endorses and practices the promoted standards for international cooperation in the area of tax information exchange and it is imperative that I share Bermuda's story and our concerns with you here today.

Mr. Speaker I re-emphasize that in the year 2000, Bermuda gave a commitment to the Organization of Economic Cooperation and Development (OECD) to uphold the standards of transparency and exchange of tax information promoted by that

organization. In making such a commitment, Bermuda confirmed our longstanding position that we do not adopt or promote measures that have been characterized as harmful nor do we prevent the disclosure of vital tax and money-laundering information, such as by legislating bank secrecy or embedding similar provisions in legislation.

To demonstrate our commitment back in 2000, Bermuda participated fully in the OECD Global Forum on Taxation's development of a model exchange of tax information exchange agreement (TIEA), adopted in 2002. In fact, Bermuda was a member of the specially created working group of the OECD Global Forum, the "Global Forum Working Group on Effective Exchange of Information" that framed the 2002 OECD Model TIEA, the same TIEA standard that many jurisdictions are hurriedly adopting in the 11th hour leading up to the meeting of the Group of 20 (G20) in London on 2nd April 2009.

Mr. Speaker, Bermuda's leadership role in establishing the OECD Model TIEA was reinforced by our experience as a partner in one of the longest-standing TIEAs in the world. The Convention between the U.S. and Bermuda Relating to the Exchange of Information and the Taxation of Insurance Enterprises and Mutual Assistance in Tax Matters was signed on July 11, 1986, and the TIEA between the U.S. and Bermuda for the Exchange of Information with Respect to Taxes was signed on December 2, 1988.

Mr. Speaker, upon conclusion of the model TIEA in 2002, Bermuda was one of the first jurisdictions to proactively undertake the process to negotiate TIEAs with both OECD and EU members, and in 2003 Bermuda responded favourably to the request to negotiate a TIEA with Australia and thereafter responded to requests from New Zealand, the

United Kingdom and Mexico in 2005, and to Germany, the Netherlands and the Nordic group in 2006.

Mr. Speaker, therefore, in addition to its TIEA and convention with the U.S., Bermuda has signed TIEAs with Australia in 2005 and the UK in 2007. In addition, just last month, on January 12, 2009, Bermuda signed the U.S.-Bermuda Mutual Legal Assistance Treaty to further improve the effectiveness of the law enforcement authorities of both Bermuda and the US in the investigation, prosecution and prevention of crime through cooperation and mutual legal assistance in criminal matters. Consequently, Bermuda has maintained its reputation as a well-regarded jurisdiction working diligently to uphold international standards for the exchange of tax information.

Mr. Speaker, as well, in order to be fully compliant, Bermuda did not hesitate to put into place the necessary domestic legislation to enable tax information to be exchanged with other jurisdictions at the standard set by the OECD, including enacting the *International Cooperation (Tax Exchange Information Agreements) (Bermuda) Act 2005*. As members of the House will recall this Act was recently amended. That legislative amendment removed the provision we had identified as an impediment to negotiating TIEAs. I am pleased to advise that earlier this week the Senate approved the amendment Bill which will come into effect upon assent.

Mr. Speaker, all the TIEAs which Bermuda has adopted embrace the OECD standard for sharing information and they cover both tax evasion and tax fraud matters. This has

been a particularly sensitive issue for the OECD as many jurisdictions have limited their exchange regimes to only tax fraud.

Mr. Speaker, it is important to emphasize that Bermuda has consistently and without hesitation lived up to its commitment to the OECD. Bermuda cannot be associated with those countries previously identified by the OECD as not living up to their commitments and that are only recently signing TIEAs or making commitments to sign TIEAs or adopt Article 26 of the OECD Model Double Tax Treaty (DTA) in their DTAs in the face of looming threats from the G20 and OECD. Article 26 of the OECD Model DTA embodies exchange of information at the same standard as the OECD Model TIEA. Unlike those countries, Bermuda has been proactive and consistent in our approach and to our standards.

Mr. Speaker, our efforts have not gone unnoticed. I informed the House that Bermuda's willingness to enter into TIEAs has been highlighted and commended by various international agencies, such as the OECD. President Sarkozy and other European leaders from the G20 have said that they will crack down on tax havens as they seek to boost transparency and to apply uniform rules governing financial markets in the wake of the global economic crisis. I remind the House that on 28th November 2008, Jeffrey Owens, Director of the Centre for Tax Policy Administration at the OECD, favorably mentioned Bermuda as one of the jurisdictions which upholds its obligations under TIEAs. He pointed out at that time that only seven centres, including Bermuda, were fully compliant with OECD transparency standards.

Mr. Speaker, of special note in 2008, an OECD sub-committee recommended that the new standard for countries is to have a minimum of 12 signed TIEAs. This is in order to advance the tax information exchange network and to demonstrate a commitment to transparency. To date, Bermuda has signed three TIEAs, with the US, Australia and the UK respectively, but before the end of next month, this number will have increased appreciably due to our work over the last several years negotiating with other countries to implement TIEAs. I can advise the House that I will sign seven TIEAs, one with each member of the Nordic Group at the Swedish Embassy in Washington DC on 16th April 2009. I can also advise the House that while in Washington I have also arranged to sign a TIEA with New Zealand at the New Zealand Embassy.

Mr. Speaker, additionally I can advise that negotiations with Germany have been concluded and I am making arrangements to sign a TIEA with Germany shortly thereafter. This is the result of diligent work on the part of the Ministry to engage in negotiations with OECD and EU members from the time we signed our commitment to the OECD in the year 2000. We are no “Johnny come lately” to this process.

Mr. Speaker by the end of April 2009, Bermuda will have a total of 11 signed TIEAs and shortly thereafter upon signing the TIEA with Germany we will have a total of 12 signed TIEAs.

Mr. Speaker, this is only the beginning. In addition to these, the Ministry of Finance is currently engaged in negotiating a further 2 TIEAs with OECD states and has begun preliminary discussions with another jurisdiction. Bermuda has favorably responded to all those countries which have approached us and that are within the terms of the UK

Letter of Entrustment, which assigns Bermuda the authority to conclude these agreements. Additionally, we have had exploratory talks with the European Commission with respect to the EUSD and expect to continue discussions with the European Commission as soon as the current process to update the EUSD has been concluded and there is more certainty as to how third countries may incorporate the Directive into their regimes.

Mr. Speaker, the issue of preventing tax abuse stems from the global financial crisis. Pressure mounted significantly on non-compliant jurisdictions on 15th November, 2008 when the G20 released its “Declaration of the Summit of Financial Markets and the World Economy”. In this Declaration, the leaders of the G20, which includes the United States, reiterated the need “to continue efforts to promote tax information exchange” and that “[l]ack of transparency and a failure to exchange tax information should be vigorously addressed.” In the intervening period and as recently as at the meetings of Finance Ministers held in London last week in preparation for the G20 summit, European leaders agreed to push for a global crackdown on tax havens and strict new regulation of hedge funds as part of a sweeping overhaul of financial rules designed to prevent future market meltdowns. They have reiterated their intentions to draw up a list of uncooperative jurisdictions - or tax havens - and putting together a "toolbox of sanctions" as soon as possible.

Mr. Speaker, it is remarkable that in the past several weeks almost all of the holdout jurisdictions, the centers that allow bank secrecy laws to obstruct exchange of tax information at the OECD standard, have all capitulated to the standard that Bermuda led in establishing. We are proud to go on record as having played a leading role in establishing the OECD Model TIEA standard, a lead role that many of our competitors cannot claim.

Mr. Speaker it goes without saying that these are challenging times. However Bermuda has not faltered and we are meeting these challenges head on as a responsible and mature country. I convey my gratitude to the good offices of His Excellency the Governor and deputy Governor and we are appreciative of His Excellency's and the deputy Governor's support and assistance in this process.

Mr. Speaker, in concluding this statement, it is very clear that Bermuda is not a tax haven nor is Bermuda an uncooperative country. Bermuda is a country that

- is ready and able to cooperate internationally;
- is fully transparent;
- is well regulated and responsive to regulatory reforms as they evolve; and,
- is a well developed as an international business centre with the infra structure and services to support world class markets and global financial services.

Our track record and leadership role in the development of an effective global exchange of tax information is unmatched.

Furthermore, Bermuda is not one of those countries that has designed its fiscal regime to attract international business. Bermuda's consumption-based tax policy has been in place

since the 19th century. This regime is a credible tax regime which raises substantial tax revenue proportionate to our key foreign trade partners such as the US and Canada. In Bermuda, the ratio of total Government tax receipts in relation to GDP was approximately 17.8 per cent in 2007. For the United States and Canada this ratio was in the range of 19.5 per cent to 20.5 per cent of GDP in 2007.

Mr. Speaker Bermuda's story is exemplary and her place in the international financial marketplace is well deserved.

Thank you, **Mr. Speaker**.