

# STRATEGIC TAX PLANNING

UK & International Tax Lawyers

## **THE TIDE IS TURNING WITH TAX INFORMATION EXCHANGE AGREEMENTS (TIEA's)**

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A recent landmark decision from the Jersey Courts, demonstrates how Tax Authorities are obtaining information on Offshore Companies and Bank Accounts and that Tax Havens are actively helping them.

The case of Volaw Trust & Corporate Services Limited and Mr B. G Larsen v. Income Tax Comptroller [2013] JRCO95 concerned a request for information from a leading Jersey Trust Company in May 2012 (effectively a Company owned by Jersey Law Firm Voisin) by the Jersey Tax Authorities in relation to one of its Clients, a Norwegian Resident, Mr Berge Gerdt Larsen.

The request was made on behalf of the Norwegian Tax Authorities under the Tax Information Exchange Agreement ("TIEA") signed between Jersey and Norway that came into force in October 2009.

Two Appeals were mounted against the production order. One by Volaw (who held the relevant information) and one by Mr Larsen himself. Both were represented in the Jersey courts by leading local Lawyers.

There were several grounds of Appeal, but the main one was based on whether a request for documents relating to four Companies associated with Mr Larsen was permitted under this TIEA for a period before the Agreement came into force. The documents were requested for a Criminal investigation and prosecution of Mr Larsen in Norway.

The Appeals were dismissed and the Production Orders confirmed. The significance for UK taxpayers is that many are confident (as they have not been caught) and have had Offshore Assets for over 50 years passed on through several generations! "How will HMRC ever know about the money stashed in X Limited in Tax Haven Y? They can't get that information!" They often reply. This case shows that things have now changed!

The UK has over 120 Double Taxation Agreements in force. It also has 20 TIEA Agreements, including one with Jersey. These provide a clear mechanism to obtain information about bank accounts and assets, even if they are held in the names of Offshore Companies, however long ago they were formed!

In March this year another Agreement was signed with Jersey creating the "Jersey Disclosure Facility" open from April this year until 30<sup>th</sup> September 2016 to allow UK taxpayers with undisclosed assets to come forward on a favourable basis.

So, for those still holding undisclosed Offshore Income or Assets, whether directly, or via Offshore Companies; they urgently need to review their tax position. We can assist with expert advice and guidance to Professionals and their Clients.

Relying on a Tax Haven to preserve secrecy and for Company Administrators to withhold information, is no longer a viable option!