

Legal 500

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Turks & Caicos

Private Client

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This country-specific Q&A provides an overview of private client laws and regulations applicable in Turks & Caicos.

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Turks & Caicos: Private Client

1. Which factors bring an individual within the scope of tax on income and capital gains?

Income and capital gains are not taxed in the Turks and Caicos Islands (TCI).

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

TCI does not have any direct taxes, such as income tax, property tax, value added tax or capital gains tax. TCI is taxed on goods and services and there is a one-time stamp duty tax on purchasing property in TCI. The stamp duty tax is a percentage of the purchase price.

3. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

Not applicable in TCI.

4. How does the jurisdiction approach the elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

There are no double tax treaties with the TCI. However, there are a number of tax information exchange agreements which TCI has entered into with various countries whereby TCI has agreed to co-operate with relevant jurisdictions in tax matters through the exchange of information. www.gov.tc/eoi/

5. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

There is no wealth tax in TCI.

6. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

TCI does not have inheritance, estate or gift tax. Persons will pay an administrative fee when applying for a grant of probate.

7. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

Not applicable in TCI.

8. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

There is no stamp duty payable on:-

(a) a conveyance of any property by way of a gift to or in trust for the spouse, parent or child of the person conveying, or to that person's sibling or grandparent once the Permanent Secretary of Finance has certified that he/she is satisfied that the transfer is not made for valuable consideration; or

(b) a conveyance or lease of any property, the transfer of shares, or any mortgage taken out by an entity which is certified by the Permanent Secretary of Finance to be established solely for charitable purposes.

9. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

There is no property tax in TCI.

There are generally no restrictions on foreign nationals owning real property in TCI. Title to real property in TCI must be held by a natural person(s), or a TCI limited liability company.

If a person owns a property through a TCI local company, the company will be subject to paying annual fees to the Companies Registry to keep the company in good standing.

10. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

Currently TCI does not have any legislation or taxation for digital assets however we will have to see what happens in years to come.

11. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

Yes, National Health Insurance Board (NHIB) contributions are paid on employment remuneration at the rate of 4.6% by employers and at the rate of 3.4% by employees. National Insurance Board (NIB) contributions are 6% for employers and 5% for employees. The contribution is charged on earnings of up to USD 7,800 per month. For more details including increases in rates, visit www.tcinhib.tc or www.tcinib.tc. Hotel and Tourism Tax is taxed at 12% for hotel accommodation, tourist related services and restaurants. Telecommunications tax is taxed at 12%. Financial Services tax is 12% on commissions and services, sending money abroad. Customs Duty is there is a 30% duty, with an additional 7.5% Customs Processing Fee (CPF). Stamp Duty Tax is payable on the purchase of a property and general range is 5%-10% of the purchase price depending on location and price of the property, please see the detailed chart below *

* www.Gov.tc/landregistry/resources/stampduty

12. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

TCI is a largely tax-free jurisdiction which can be advantageous for individuals relocating to TCI, especially those individuals that are arriving from a heavily taxed jurisdiction. There are incentives for investors who are bringing economic investment into TCI, incentives such as lower customs duty tax on importation of goods

further to their development agreement that will be signed with Turks and Caicos Islands Government (TCIG).

Used personal goods imported by an individual relocating to TCI are customs duty free when arriving in TCI within the first 6 months of relocation to TCI.

Invest TCI, is an on island facility that is available to provide, " *information on the local business climate; facilitating the investment process through liaison with key Government Departments; advice on Government incentives and concessions to investors; introductions to local service providers/suppliers; advice on immigration matters, including permanent residence certificates; and specific ongoing support following the setup of a business*". Invest TCI is a one stop shop for persons in TCI desirous of starting a business or persons moving to TCI desirous of bringing investment and development to TCI.

13. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

In relocating to TCI, a person should :-

- a) Ensure they are knowledgeable about the immigration procedures and protocols in TCI. All persons must have an immigration status to reside or work in TCI. Further information regarding immigration can be found here on : - [Work Permits \(gov.tc\)](http://www.gov.tc)
- b) Ensure they are aware of the costs of relocation, consulting a shipping company and researching on island homes for rent or sale would be the first point of contact. Further information can be found here:- [Shipping, Air, and Sea Freight in the Turks and Caicos | Visit Turks and Caicos Islands \(visittci.com\)](#).
- c) Research and be well informed about the costs of living in TCI and ensure they are aware of the logistics of moving to TCI, such as opening a bank account, driving a vehicle, wifi and data services, utilities costs etc.

14. What are the main rules of succession, and what are the scope and effect of any rules of forced heirship?

TCI follows English common law regarding succession. In TCI there are no rules which grant forced heirship or restrict the freedom of testators to dispose of their property in accordance with their wishes.

If a person dies intestate, the rules are laid out in the Intestacy Ordinance.

15. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

Matrimonial property is passed directly to the spouse of the deceased where the property is held as joint proprietors.

If matrimonial property is held by as proprietors in common, the interest of the deceased spouse will pass in accordance with the terms of their Will, or where there is no Will, it will follow the rules of the Intestacy Ordinance.

[Civil partnerships are not recognised in TCI]

16. What factors cause the succession law of the jurisdiction to apply on the death of an individual?

If a person is ordinarily resident in TCI and has immoveable property in TCI.

17. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

TCI follows English private international law as it relates to conflict of laws.

18. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

We would recommend that all persons should have a Will as it relates to their wishes and their estate in the event of their death. Wills in TCI are governed by The Wills Ordinance. It is further recommended that persons have a TCI Will as it relates to a TCI property and that a TCI qualified attorney draft and review the Will. Some foreign grants of probate can be resealed in TCI, and some foreign wills will have to be granted probate in the TCI., it will depend on the jurisdiction.

If a person dies intestate, the rules are laid out in the Intestacy Ordinance.

The formal requirements for making a will are that the will is in writing, signed by the testator and witnessed by two persons who must sign the will in the presence of the testator.

19. How is the estate of a deceased individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

If the individual dies and has a valid Will then an Executor/Executrix will have been appointed under the Will. Following a grant of probate by the Court, the Executor/Executrix will then administer a deceased individual's estate, this will include collecting assets, paying debts and distributing to named beneficiaries.

If an individual dies without leaving a valid Will, they have died intestate, and a personal representative will be appointed (following the grant of letters of administration by the Court) to administer the estate. Please see above number 14 as it relates to an estate passing through intestacy rules.

20. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

TCI have a Trust Ordinance that allows for the creation of trusts. Trusts in TCI may be administered in TCI but governed by the laws of another jurisdiction whereby the law of the jurisdiction expressly designated by the terms of the trust as being the law that is to govern the trust. The Supreme Court of TCI has jurisdiction over TCI Trusts and over a foreign trust and any trustee of the trust is resident in TCI, the trust property is situated in TCI, administration of the trust or property is carried out in TCI, or the terms of the trust provide that the Supreme Court of TCI is to have jurisdiction. A foreign trust is not enforceable in TCI when, "*it purports to do anything contrary to the law of the TCI or confer any right or power or impose any obligation that is contrary to the law of the TCI, or is immoral or contrary to public policy.*"¹

Footnotes:

¹ Trusts Ordinance (2016), section 59(2)(a)

21. How are these structures constituted and what are the main rules that govern them?

A trust is created by oral declaration, by an instrument in writing or by conduct. A trust in TCI is usually created by execution of a trust instrument. Other wealth planning structures available include companies, limited partnerships, and joint ventures.

The main rules that govern such structures are:-

Companies Ordinance (2017);

Companies and Limited Partnerships (Economic Substance) Ordinance (2018);

Limited Partnerships Ordinance (1992)

Trusts Ordinance (2016);

Trusts Companies (Licensing and Supervision) Ordinance (2016);

Trust Companies (Regulations) (2016); and

Trust Companies Code (2016).

22. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

The TCI Financial Services Commission (FSC) licenses and supervises trust business and trust services. Requirements for annual audits, insurance and regulatory inspections are under the FSC's remit.

23. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

There are no direct taxes applicable to the TCI, and as a result, there are no local tax implications for settlors, founders, trustees, directors or beneficiaries.

For the purposes of transferring real property to beneficiaries of a trust in accordance with the trust deed, stamp duty exemptions are available resulting in no stamp duty payable on these property transfers.

24. Are foreign trusts, private foundations, etc

recognised?

Yes, please see question 20.

25. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

TCI has no direct taxes that are applicable to trusts in TCI. Beneficiaries, trustees and settlor can estate plan in TCI without tax implications.

26. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

While TCI does not have any specific anti-avoidance rules, attempts to use a TCI trust/entity to shelter assets from such creditors may result in the issue of civil or criminal proceedings. Such TCI entities will also be subject to other countries' disclosure rules, for example:-

(a) the UK's Economic Crime (Transparency and Enforcement) Act 2022, and the requirement for overseas entities who want to buy, sell or transfer property or land in the United Kingdom, to register their registerable beneficial owners (or managing agents) on the Register of Overseas Entities held at Companies House);

(b) the US Foreign Tax Compliance Act;

(c) Common Reporting Standards; and

(d) any applicable Tax Information Exchange Agreements/mutual legal assistance treaties with various countries.

27. What provision can be made to hold and manage assets for minor children and grandchildren?

There is no restriction in TCI for minor children and/or grandchildren to be beneficiaries of a trust.

28. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

[Individuals can appoint an attorney pursuant to a

Continuing Power of Attorney (CPOA). The CPOA would specify the scope of the powers conferred on the attorney, and would remain valid and continue in the event that the donor ceases to have mental capacity, and will last until revoked by the donor, the attorney, or the Court.

29. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

In TCI, charitable organisations are classed as Non-Profit Organisations (NPO), and can comprise, trusts, or incorporated or unincorporated entities. Subject to limited exemptions contained in the Non-Profit Organisations Registration Guideline (2022), all NPOs operating in TCI are required to register with the TCI Financial Services Commission (as NPO Supervisor).

30. What is the jurisdiction's approach to information sharing with other jurisdictions?

TCI is part of the Foreign Account Tax Compliance Act (FATCA) agreement and also compliant with The [Global Forum on Transparency and Exchange of Information for Tax Purposes](#) (the Global Forum) with regards the international standard on transparency and [exchange of information on request](#) (EOIR). In this way TCI is open to sharing information with foreign jurisdictions.

31. What important legislative changes do you

anticipate so far as they affect your advice to private clients?

All ordinances are gazetted in the original gazette and can be located at [Publishing Department | Government of the Turks and Caicos Islands](#)

In addition, TCI (through the FSC) has committed to implement the Financial Action Task Force (an intergovernmental organisation) standards and regulations relating to the prevention and detection of money laundering and combating terrorist financing. As a result, TCI's anti-money laundering regulations are continuously evaluated and updated to achieve consistency with those standards.

For those seeking permanent status and a pathway to voting rights, since April 2023 there have been decisions pending on multiple challenges by way of applications for judicial of refusals to grant Turks and Caicos Islander status under legislation said to have provided transparency and clarity on that process following recommendations made in the Commission of Inquiry in 2009. Tim Prudhoe of the law firm Stanbrook Prudhoe led those challenges.

In early November 2022 issues of same-sex marriage were also litigated. By way of challenge under the Constitution. The decision on that remains pending and is expected in early 2024. Tim Prudhoe of the law firm Stanbrook Prudhoe led those challenges.

Litigation funding arrangements have been approved both inside and outside of insolvency. Yuri Saunders of the law firm Stanbrook Prudhoe led those challenges, which were decided in July 2021.

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