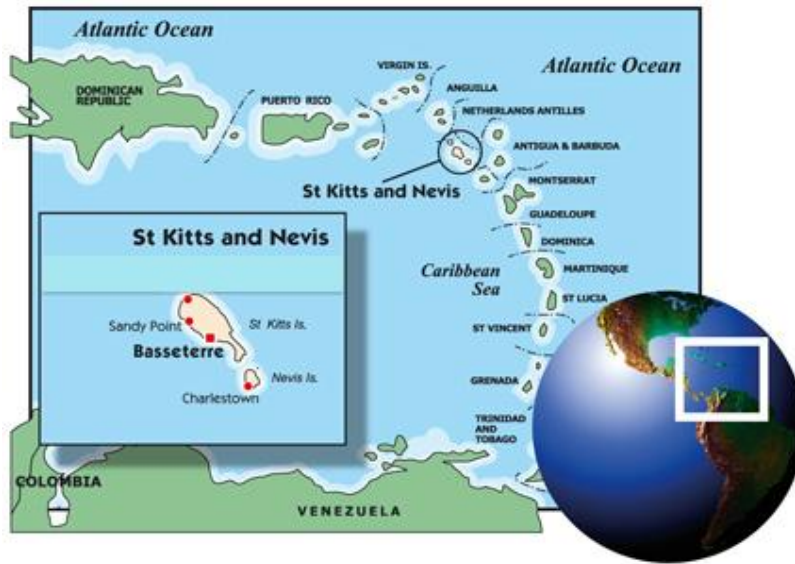


## INTERNATIONAL GUIDE TO DOING BUSINESS IN THE FEDERATION OF ST. CHRISTOPHER (ST. KITTS) AND NEVIS



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**KWF**

December 31<sup>st</sup>, 2023

## **PREFACE**

The following is a general introductory guide to some of the laws applicable to doing business in the Federation of St. Kitts & Nevis. Unless otherwise specified, it is based upon the law in force and circumstances existing as at September 30th, 2023.

The information contained in this guide is in summary form and is given by way of general reference and for informational purposes only. It is not intended to be a comprehensive statement of the law, nor is it intended to provide legal advice. Potential investors contemplating doing business in St. Kitts & Nevis should seek legal and other advice with regard to proposed or contemplated ventures.

**Kelsick Wilkin & Ferdinand** is the oldest law firm in St. Kitts & Nevis (carrying on a law practice established in 1947) and it is the leading commercial law firm. The firm carries on a general practice of law with emphasis on commercial, corporate, investment, banking, civil litigation, real estate, trademarks and other intellectual property law.

Clients include major banks, trading companies, condominium developments, hotels, manufacturers, investment companies, insurance companies, real estate developers, travel and airline agents, rental companies, and a variety of other businesses of all sizes in St Kitts & Nevis.

Our website is at [www.kwfonline.com](http://www.kwfonline.com)

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## **ST. KITTS & NEVIS AT A GLANCE**

### **GEOGRAPHY**

St. Kitts & Nevis comprises geographically the two neighboring islands of St. Christopher (St. Kitts) and Nevis, which are part of the Caribbean island chain. The islands are two miles apart at their closest points and their respective capital towns of Basseterre (St. Kitts) and Charlestown (Nevis) are 11 miles apart. Travel between the islands is available by air (5 minutes) or by ferry between the two capital towns (45 minutes) or by car ferry between the closest points (20 minutes) or by water taxi (10 minutes).

Both islands are volcanic in origin, each with a dormant volcano. Both islands have attractive white sand beaches. St. Kitts comprises 68 square miles and Nevis 38. This makes the country one of the smallest (in physical and population sizes) members of the United Nations. It is currently the smallest independent nation in the Western Hemisphere.

The climate is a pleasant 26° C - 32° C year round with the months of December to April (the tourist season) being the cooler months. The sea water temperatures are always comfortable for bathing. The effects of global warming which are noticeable elsewhere in the world are very apparent here with record high temperatures in 2023.

### **ORIGINAL SETTLERS**

Prior to the arrival of Europeans the islands were settled by Amerindians of whom the Kalinago (called "Caribs" by the Europeans) arrived approximately three centuries before the Europeans. They named St. Kitts "Liamuiga" meaning 'fertile land' and Nevis "Oualie" meaning 'land of beautiful waters'.

### **COLONIAL HISTORY**

St. Kitts was the first island in the Caribbean settled by the British (1623) and the French (1628) and was shared by the two powers until 1783. St. Kitts was for this reason known as the "Mother Colony" of the West Indies. Nevis was settled by the British from St. Kitts in 1628. St. Kitts and Nevis remained British until 1983 when both islands together became an independent nation.

### **POPULATION AND LANGUAGE**

The population of the country is approximately 50,000 predominantly of African origin. The official language is English.

## **PROXIMITY TO OTHER COUNTRIES**

The country is geographically close to the Dutch-French island of St. Maarten/St. Martin (40 miles), Antigua (60 miles) and Puerto Rico (238 miles). It is located approximately 1100 miles (2 ½ hour flight) from Miami, Florida.

## **REGIONAL AFFILIATIONS**

St. Kitts & Nevis is by treaty a member of the Organization of Eastern Caribbean States (OECS) and shares a common Central Bank, Securities Exchange and Supreme Court with the other Leeward and Windward island countries comprising that group. The currency is the East Caribbean dollar which is fixed to the United States dollar at US\$1 = EC\$2.70. The currency fluctuates accordingly against other major currencies.

St. Kitts & Nevis is also a member of the Caribbean Community (CARICOM) under treaty arrangements governing customs tariffs, tax, immigration and trade rules with the other (mainly Caribbean) members of that grouping.

## **RELIGION**

Christianity is the main religion.

## **INFRASTRUCTURE**

The international airport is situated on St. Kitts on the outskirts of Basseterre (5 minutes drive) and receives direct flights from North America, the United Kingdom and other Caribbean islands. Nevis has a small airport which receives small private jets and regional flights.

The road network on both islands is fair and provides full access to all populated areas.

There is a commercial seaport on each island. St. Kitts also has a port dedicated to cruise ships with an adjacent duty free shopping area comprising 35 acres within walking distance of the historic capital town of Basseterre.

Basseterre and Charlestown are small, beautiful towns with special pride in their old and new buildings many of which preserve the historic architectural style.

Public transport is available on both islands.



The telecommunications system on both islands is good, providing fixed line and mobile telephone, facsimile and broadband internet connections with the rest of the world. Water services cover substantially the whole of both islands.

There is high literacy on both islands, whose public school system is free of charge and provides a relatively sound education up to secondary level. Both islands also have private fee paying schools. Attendance at primary and secondary school is by law compulsory for persons under 16 years of age. St. Kitts & Nevis is a participating member of the University of the West Indies whose 3 main campuses provide university education at international standards. Some courses of the University can be taken in St. Kitts & Nevis at the Open Campus of the University.

The postal service is moderately good. Courier service is available through the major international service providers.

Water, electricity, ports and hospital services are Government owned and operated. Telecom providers are all non-Government corporate entities. The major provider Cable & Wireless St. Kitts-Nevis Ltd. is a public company traded on the Eastern Caribbean Securities Exchange.

Public transport and ferry services are privately owned. There are Cable TV services on both islands carrying mainly US channels.

## **HEALTH CARE**

A reasonably good standard of primary health care is available on St. Kitts & Nevis. The ~~medical~~[medical](#) profession includes University of the West Indies' and Ivy League trained physicians and experienced General Surgeons. There is a growing number of physicians trained in Cuba. Being a very small country with a small population there are not many Specialists but there are some, including Paediatricians, Internists, Psychiatrists, Obstetricians and Gynecologists and Dermatologists. Specialists in Ophthalmology, ENT and Orthopaedics visit regularly from neighbouring islands.

There are numerous public health clinics serving the various communities throughout St. Kitts & Nevis, and each of the two Islands has a general hospital with surgical, in-patient, laboratory and other capabilities.

As a matter of Government policy, local health services are offered free of charge to school-children under the age of 18 and to citizens over the age 62, and to all citizens (irrespective of

age) who suffer from one or more of the following conditions: diabetes mellitus, hypertension, mental illness, glaucoma and/or all sexually transmitted infections, including HIV/AIDS.

## GENERAL CONSIDERATIONS

### INVESTMENT

From the 1620's until 2005 sugar production was the main industry on St. Kitts and the biggest earner of foreign exchange for the country. This industry has been replaced by tourism as the main industry on both islands. Tourism is capital intensive. Given its small local capital base the country is heavily ~~dependant~~dependent on and positively welcomes direct foreign investment.

The number of nationals of the country who live in North America, the United Kingdom and other Caribbean islands far outnumber the number of residents. Remittances from such nationals also contribute significantly to the economy as do offshore education services consisting of medical and veterinary universities providing education to non-nationals. The direct capital investment to build and manage these facilities and the monies spent by resident students of these universities (which are accredited and regulated by the Government under a statutory system) contribute significantly to the country's economy.

Government agencies devoted to the promotion of foreign investment include the Saint Christopher Tourism Authority, St. Kitts Investment Promotion Authority and Nevis Tourism Authority. Private sector agencies are St. Kitts-Nevis Chamber of Industry & Commerce and the Hotel & Tourism Association.

There are also agencies dedicated to the promotion of investment by nationals including the Development Bank of St. Kitts & Nevis, the Foundation for National Development and the private sector organizations referred to above.

Investors in major projects usually negotiate agreements with Government granting tax holidays and duty free allowances.

## FINANCIAL FACILITIES

## **EASTERN CARIBBEAN CENTRAL BANK (ECCB)**

St. Kitts is the headquarters of the Eastern Caribbean Central Bank which is located at Bird Rock, Basseterre.

The Eastern Caribbean Central Bank ([www.eccb-centralbank.org](http://www.eccb-centralbank.org)) was established in October 1983. It is the Monetary Authority for a group of eight island economies namely - Anguilla, Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, St Kitts and Nevis, St Lucia, and St Vincent and the Grenadines.

## **EASTERN CARIBBEAN CURRENCY UNION (ECCU)**

St. Kitts & Nevis and the remaining member states of the ECCB make up the Eastern Caribbean Currency Union. The financial system in the ECCU comprises domestic banks, credit unions, insurance companies, national development foundations, development finance institutions, building and loan associations and finance companies.

## **FINANCIAL SYSTEM IN ST. KITTS & NEVIS**

The financial system in the Federation is bank centric with banks dominating the financial landscape. Commercial banks operating in St. Kitts & Nevis are as follows:

### **Local Banks (alphabetically)**

#### **The Bank of Nevis Limited**

([www.bankofnevis.com](http://www.bankofnevis.com)) is locally incorporated and owned and has its headquarters at Main Street, Charlestown Nevis and branches in St. Kitts. It has been operating since 1985.

#### **St. Kitts-Nevis-Anguilla National Bank Limited**

([www.sknanb.com](http://www.sknanb.com)) is locally incorporated and owned. It has been in operation in St. Kitts & Nevis since 1971. Its head office is situated on Central Street, Basseterre, St. Kitts with branches at Pelican Mall and Sandy Point, St. Kitts and at Prince William Street, Charlestown, Nevis.

#### **Regional Banks (alphabetically) FirstCaribbean International Bank (Barbados) Limited**

([www.firstcaribbeanbank.com](http://www.firstcaribbeanbank.com)) is incorporated in Barbados with its head office at Warrens, St. Michael's, Barbados and has a branch at Bank Street, Basseterre, St. Kitts. FirstCaribbean is the successor to the banking business of Barclays Bank PLC in St. Kitts & Nevis since October 2002. Barclays was the first foreign bank to operate in St. Kitts & Nevis in 1837.

### **Republic Bank (EC) Limited**

**([www.republicbankstkitts.com](http://www.republicbankstkitts.com)) is incorporated in St. Lucia with its registered office situate at 1st Floor Meridian Place, Choc Estate Castries, in the island of St. Lucia and has branches at Fort Street, Basseterre and Bird Rock, Basseterre in the island of St. Kitts and at Main Street, Charlestown, in the island of Nevis. Republic Bank is the successor to the banking business of The Bank of Nova Scotia in St. Kitts & Nevis since October 31<sup>st</sup> 2019.**

All of the above banks are licensed under and governed by The Banking Act of St. Kitts & Nevis and regulated and supervised by the Eastern Caribbean Central Bank (ECCB).

The locally incorporated and owned **TDC Financial Services Company Limited (TDCFS)** is also licensed to do financial business which is regulated and supervised by ECCB. TDCFS is a subsidiary of St. Kitts-Nevis-Anguilla Trading and Development Company Limited (TDC), a local public company.

In addition to commercial banks, local financial institutions include The Development Bank of St. Kitts and Nevis, a statutory corporation owned and operated by the Government, St. Kitts Co-Operative Credit Union Limited, First Federal Cooperative Credit Union Limited and Nevis Co-Operative Credit Union Limited.

### **FOREIGN INVESTORS**

Foreign investors are not required to maintain a bank account in the Federation. However, if they desire to do so, they can open and operate bank accounts in St. Kitts & Nevis once they satisfy the requirements of the individual financial institutions for the opening of an account to be held by a foreigner.

Foreign investors can also (subject to Ministry of Finance approval) obtain bank loans locally once they satisfy the loan application requirements of the individual financial institutions for the granting of loans to foreign individuals or entities.

### **EASTERN CARIBBEAN SECURITIES EXCHANGE (ECSE)**

St. Kitts is the headquarters of the Eastern Caribbean Securities Exchange which is also located at Bird Rock, Basseterre.

The ECSE ([www.ecseonline.com](http://www.ecseonline.com)) is a regional securities market established by the Eastern Caribbean Central Bank and licensed under the Securities Act of 2001 and Regulations passed under it - a uniform regional body of legislation governing securities market activities.

The Bank of Nevis Limited, St. Kitts-Nevis-Anguilla National Bank Limited and TDC are among the five local public companies which are listed on the Eastern Caribbean Securities Exchange.

## EXCHANGE CONTROLS

### **BUSINESS TRANSACTIONS WITH NATIONALS, RESIDENTS OR NON-RESIDENTS**

Citizens are persons born in the Federation, or descended from such persons within criteria set out in the Constitution; or persons registered or naturalized by virtue of the Constitution or the Saint Christopher and Nevis Citizenship Act.

Residents are categorized as permanent residents, annual residents, temporary residents and work permit holder residents under the Immigration Act.

The grant of residency status only does not entitle the holder to work or to do business in St. Kitts & Nevis. All persons who are not citizens require a work permit to engage in any occupation or to accept employment in the country. In addition all citizens and work permit holders who wish to conduct certain specified businesses in the Federation are required to obtain a business licence from the Ministry of Finance under the Licences on Businesses and Occupations Act.

There are no restrictions on an investor's use of a bank account. However account activity may be monitored to ensure that there is no suspicious activity that may trigger a suspicious activity report to the Financial Intelligence Unit for potential money laundering.

### **INVESTMENT CONTROLS**

A foreign (alien) investor may be required to make application to the Federal Government in St. Kitts or to the Nevis Island Administration in Nevis to obtain an alien land holding licence in accordance with the provisions of the Aliens Land Holding Regulation Act to be a director of a company, to hold shares in a company, to exercise votes in a company or to hold title to an interest in real estate in the Federation.

In addition, in order to protect or to promote local investment the Government may restrict or deny foreign investors permission to operate certain industries, particularly those which are over-subscribed and non-capital or technical intensive. See further, "Requirements for the Establishment of Business."

## **MONEY TRANSFERS**

The Eastern Caribbean Central Bank provides exchange rates for foreign currency which all commercial banks use as a guide in setting their foreign currency exchange rates.

There are no direct restrictions on the transfer of money into or out of the country unless the transfer of funds triggers Anti Money Laundering Regulations.

Anti-Money Laundering Regulations require that a regulated person must pay special attention to certain types of transactions e.g. complex, unusual or large business transactions; unusual patterns of transactions; insignificant but periodic transactions which have no apparent economic or lawful purpose.

In addition the Regulations require that upon reasonable suspicion of any the foregoing apparently questionable types of transactions which may constitute or be related to money laundering, a relevant business shall promptly report the suspicious transaction to the reporting Authority.

Withholding Tax at the rate of 15% of payments is payable on certain remittances abroad. (see Taxation section)

## **IMPORT/EXPORT REGULATIONS**

St. Kitts & Nevis has been a member of GATT since 1995, but it is not a member of the EEC. The country is party to the following regional trade agreements:

- Caribbean Single Market & Economy (CSME)
- Caribcan (Caribbean-Canada)
- Caribbean Basin Initiative (Caribbean-USA)
- Economic Partnership Agreement (Caribbean-EU)
- CARICOM-Dominican Republic

## **THE CUSTOMS DEPARTMENT**

The St. Kitts & Nevis Customs department's website ([www.skncustoms.com](http://www.skncustoms.com)) is modern, well-structured, and contains comprehensive up-to-date information about their administration, procedures, tariffs, relevant legislation, exchange rates; and provides various e-documents and forms for viewing or download.

## **TARIFF & DUTY INFORMATION**

Customs duties and taxes are collected based on the value which is derived from the value stated on the invoice, receipt or other proof of purchase, or such higher value as the Customs Officer assesses as the true value of the goods.

The dollar value must be converted from the foreign currency stated on the proof of purchase document to Eastern Caribbean Dollar XCD. An exchange rate for the conversion of foreign currency to XCD is published by Eastern Caribbean Central Bank. Other foreign currency rates are subject to change and are updated weekly in conjunction with the Central Bank.

Customs Import Duties are applicable according to the rates set out in the Common External Tariff of the Caribbean Common Market. The rates are applied based on the (Cost, Insurance and Freight) - CIF.

## **MANUFACTURING REQUIREMENTS**

There are no manufacturing requirements that stipulate that products must contain locally produced ingredients or components. Therefore, component parts are allowed to be imported.

## **DIPLOMATIC RELATIONS**

### **ORGANIZATION OF EASTERN CARIBBEAN STATES**

The Federation of St Kitts & Nevis is a member state of the Organization of Eastern Caribbean States (OECS) ([www.oecs.org](http://www.oecs.org)) which came into being on June 18, 1981, when seven Eastern Caribbean countries signed a Treaty agreeing to cooperate with each other and promote unity and solidarity among the Members. The Treaty became known as the Treaty of Basseterre, so named in honour of the capital of St Kitts, where it was signed.

The OECS is now a nine member grouping comprising of Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, St Kitts & Nevis, St Lucia, and St Vincent

and the Grenadines, Anguilla, The British Virgin Islands. Martinique and Guadeloupe are associate members of the OECS.

The OECS mission is to be a major regional institution contributing to the sustainable development of the OECS Member States by assisting them to maximize the benefits from their collective space, by facilitating their intelligent integration with the global economy, by contributing to policy and program formulation and execution in respect of regional and international issues, and by facilitation of bilateral and multilateral co-operation.

### **CARIBBEAN COMMUNITY**

St Kitts & Nevis is also a member of the Caribbean Community (CARICOM) ([www.caricom.org](http://www.caricom.org)) which was created by the signing of the Treaty of Chaguaramas on 4th July 1973 by Commonwealth Caribbean leaders. The objectives of the Community, identified in Article 6 of the Revised Treaty are:

“to improve standards of living and work; the full employment of labour and other factors of production; accelerated, coordinated and sustained economic development and convergence; expansion of trade and economic relations with third States; enhanced levels of international competitiveness; organization for increased production and productivity; achievement of a greater measure of economic leverage and effectiveness of Member States in dealing with third States, groups of States and entities of any description and the enhanced co-ordination of Member States’ foreign and foreign economic policies and enhanced functional co-operation.”

The Treaty was revised in 2001 and is called formally, The Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the CARICOM single Market and Economy.

Allowances have been made for the subsequent inclusion in the Revised Treaty, by way of additional Protocols of new issues such as e-commerce, government procurement, trade in goods from free zones, free circulation of goods, and the rights contingent on the free movement of persons.

### **THE COMMONWEALTH**

The Federation of St. Kitts & Nevis has been a member of the Commonwealth ([www.thecommonweath.org](http://www.thecommonweath.org)) since the country gained its independence from the United Kingdom in 1983.



## **ORGANIZATION OF AMERICAN STATES**

St. Kitts & Nevis is also a member of the Organization of American States ([www.oas.org](http://www.oas.org)).

## **COUNTRIES WITH WHICH ST. KITTS & NEVIS HAS DIPLOMATIC RELATIONS**

The List can be found on the website of the Ministry of Foreign Affairs ([www.foreign.gov.kn](http://www.foreign.gov.kn)).


## **FOREIGN EMBASSIES IN ST. KITTS & NEVIS**

The following countries have embassies in St. Kitts & Nevis:

- Republic of China on Taiwan
- Republic of Cuba
- Republic of Venezuela

## **FOREIGN HONORARY CONSULS IN ST. KITTS & NEVIS**

The List can be found on the website of the Ministry of Foreign Affairs ([www.foreign.gov.kn/resident-consular-corps](http://www.foreign.gov.kn/resident-consular-corps)).

## **NATIONALS OF THE COUNTRIES REQUIRE A VISA TO ENTER ST. KITTS & NEVIS:**

The List can be found on the website of the Ministry of Foreign Affairs - ([www.foreign.gov.kn /countries-that-need-visas-to-travel-to-st-kitts-and-nevis/](http://www.foreign.gov.kn/countries-that-need-visas-to-travel-to-st-kitts-and-nevis/)).

## **GOVERNMENT**

St. Kitts & Nevis (also constitutionally called “Saint Christopher and Nevis” or “the Federation of Saint Christopher/St. Kitts and Nevis”), is a parliamentary democracy and a sovereign independent state within the Commonwealth.

Executive authority is vested in the Prime Minister and Cabinet, which is collectively responsible to the Parliament (i.e.. the National Assembly). The Prime Minister is appointed by the Governor General as the elected member of the National Assembly best able to command

the support of the majority of the elected members. The Prime Minister usually selects a Cabinet from his political party's members in the National Assembly.

The present Government formed by The St. Kitts Nevis Labour Party has been in office since the general elections of August 5<sup>th</sup> 2022.

The Independence Constitution of 1983 fundamentally reflects a separation of powers between three branches of Government: Parliament, the Executive and the Judiciary.

The national legislature/parliament is constitutionally styled the "National Assembly". After general elections, the leader of the majority party or the leader of a majority coalition is usually appointed as Prime Minister by the Governor General. However, in making the appointment the Governor General exercises a subjective judgment to determine which of the elected Representatives is likely to command the support of the majority of the said Representatives.

The Executive branch consists formally of the Head of State, who is His Majesty King Charles The Third, represented locally by a Governor General who is selected based upon the advice of the Government of St. Kitts and Nevis. Effective Executive authority is actually exercised by a Cabinet of Ministers selected by the Prime Minister, principally from among the elected members of the political party headed by him.

The Judicial Branch is comprised of judges of the High Court and of the Court of Appeal of the Eastern Caribbean Supreme Court who are appointed by a constitutional process that is designed to avoid political interference. Judges' security of tenure is also constitutionally protected, and the independence of the Judiciary is further buttressed by the fact of the Eastern Caribbean Supreme Court being a regional body. The Chief Justice of the Eastern Caribbean Supreme Court determines which particular Judges are assigned to each particular Island jurisdiction. The Judicial Committee of the Privy Council, which is mainly comprised of Judges of The Supreme Court of the United Kingdom, is the final appellate Court for St. Kitts and Nevis.

## **THE JUDICIAL SYSTEM**

The judicial system in St. Kitts & Nevis is considered impartial. Judges are appointed, not elected. Judges are usually chosen from experienced senior lawyers from throughout the Commonwealth. The Constitution empowers the Courts to declare void any legislation purportedly enacted but which is judicially determined to be in breach of constitutional

principles, including but not limited to Fundamental Rights and Freedoms which are protected by the Constitution. The Courts have exercised this power of judicial review of legislation on a number of occasions and the Courts' rulings have been respected by successive administrations which have formed the Executive branch of Government.

A modern system of Civil Procedure Rules was put in place in 2000 and revised effective 31<sup>st</sup> July, 2023. These Rules have greatly expedited and improved the administration of Justice in civil matters. They expressly accommodate Mediation and other laws also permit contracting parties to agree upon Arbitration as alternative means for the resolution of disputes.

The St. Kitts-Nevis legal system is based on the English common law, subject to modifications effected by the Constitution, legislation enacted by the National Assembly and judicial decisions which may develop the common law so as to ensure its suitability to local circumstances where appropriate.

There is some legislation providing for the reciprocal enforcement of judgments in relation to a number of countries. Where such legislation is not applicable, there remain other means by which many foreign judgments can be enforced locally, and vice versa.

Any person who is physically in St. Kitts & Nevis will be subject to its laws. Any business incorporated, registered or licensed under the laws of St. Kitts & Nevis will also be subject to local jurisdiction. The common law rules in relation to conflict of laws apply to legal disputes which have foreign elements.

#### **ELECTORAL SYSTEM.**

The country's electoral system is badly in need of reform. Its deficiencies and abuse have led to many legal battles in the Courts particularly concerning the registration of voters and the conduct of elections.

#### **NEVIS WITHIN THE FEDERATION**

The "Federal" structure of St. Kitts & Nevis is somewhat unique. The 1983 Independence Constitution established a separate legislature ("the Nevis Island Assembly") and Executive ("the Nevis Island Administration") which have authority, in some respects exclusive authority, over certain matters in relation to the Island of Nevis. There are no similar political institutions exclusively for the Island of St. Kitts, whose governance accordingly falls within the purview of the national or "Federal" structures constitutionally established for both St. Kitts and Nevis.

There has to date been no litigation between the Nevis Island authorities and the St. Kitts-Nevis national/Federal authorities in which the Courts have been asked to determine the constitutional allocation of powers as between the Federal and the Nevis Island institutions. The Constitution expressly provides that any such disputes can be determined by the High Court. The Constitution grants Nevis' political institutions a substantial degree of autonomy and safeguards this autonomy from alteration by the Federal government.

## **ENVIRONMENTAL CONSIDERATIONS**

There has been increasing attention by the Government in recent years to environmental protection.

Environmental protection is managed under the National Conservation and Environmental Protection Act 1987. This Act established the Department of Environment which is charged with management of conservation areas and of environmental protection in St. Kitts & Nevis.

Conservation and environmental protection are divided into four main categories:-

- Coast conservation and beach protection
- Forestry, soil and water conservation
- Protection of wild animals and birds
- Protection of antiquities and old buildings

Every development proposal which may affect any of the foregoing must include an environment impact assessment.

## **INTELLECTUAL PROPERTY**

Trademarks, copyrights, industrial designs and patents are protected by statute. The relevant statutes are:-

- The Marks, Collective Marks and Trade Names Act 2000
- The Copyright Act 2000
- The Patents Act 2000

Protection of trademarks and patents is based on registration; copyright protection is not.

In addition to the foregoing legislative protections, there are common law and equitable rules which protect confidential information even though not falling within any of the categories

protected by the above statutes. Such protection could in appropriate circumstances extend to know-how.

St. Kitts & Nevis is party to the Paris Convention for the Protection of Industrial Property.

## **TRADE MARKS**

Any mark capable of distinguishing the goods or services of one entity from another is registrable as a trade mark.

Registration is for a period of 10 years and may be renewed for successive periods of 10 years. The owner of the trade mark may license its use but the licence must provide for effective control by the licensor of the quality of goods or services of the licensee in connection with which the mark is to be used.

## **COPYRIGHTS**

Copyright may exist in (a) original literary, dramatic, musical or artistic works, (b) sound recordings, films, broadcasts or cable programs, and (c) typographical arrangements of published editions.

Protection is not based on registration. In general, the author of a protected work is the first owner unless there is an agreement to the contrary.

Copyright protection lasts for 50 years except with regard to typographical arrangements of a published edition for which the period is 25 years.

Copyright may be assigned or licensed.

The Copyright Act authorizes the unaltered simultaneous re-transmission of cable programming in St. Kitts & Nevis without the need to obtain a licence from the copyright owner. However, in such a case, the copyright owner is entitled to equitable remuneration.

## **PATENTS**

Patents may be granted in respect of any invention which is new, involves an inventive step and is capable of industrial application except for (a) scientific theories or mathematical methods, (b) schemes rules or methods for doing business or performing a mental act or playing a game or

(c) methods for the treatment of the human or animal body by surgery or therapy as well as diagnostic methods practiced.

A patent lasts for 20 years.

Patents may be assigned or licensed.

At any time after the later of 4 years from the grant of the patent or 3 years from the date of the filing, any interested person may apply to the Court for the grant of a non-voluntary licence under the patent on the ground that the invention is not being exploited or is being insufficiently exploited by working the invention in, or by importation into, St. Kitts-Nevis. If the court grants the non-voluntary licence it must fix the scope and function of the licence, the time limit within which the licensee must begin to exploit the patented invention, and the amount of remuneration to be paid to the patentee.

## INVESTMENT INCENTIVES

### DESIGNATED DEVELOPMENT AREAS

The Government has designated areas on St. Kitts in which foreign investment in tourism is ~~incentivised~~[incentivized](#). These include the Southeast Peninsula, Frigate Bay and Whitegate Development area. Separate statutory regimes apply to promote investment in these areas.

### LAND HOLDING LICENCES

Any non-national individual, and corporate entity formed outside St. Kitts & Nevis, and any corporate entity formed in St. Kitts & Nevis which has any non-national director or of whose shares non-nationals own more than a third, are required to obtain an alien landholding licence to hold title to land except in the Frigate Bay area and on the Southeast Peninsula of St. Kitts, in which latter area up to two acres may be held without such a licence.

An alien landholding licence is required for any such person or entity to hold title to land in Nevis. Any non-national is required to obtain a licence to be a director or shareholder of a Company which carries on business in Nevis, whether the company owns land or not.

## **INCENTIVES FOR INVESTMENT IN TOURISM**

Incentives available to tourism projects (including hotels, condominiums and villa developments) include a tax holiday, waiver of duties on the importation of goods and materials for the construction and operation of the development and waiver of withholding taxes.

## **INCENTIVES FOR MANUFACTURING**

Incentives are available for enterprises engaged in manufacturing and processing which meet criteria based on local value added to the products under manufacture. The legislation allows a tax holiday of up to 10 years and waiver of import duties on components, equipment and other goods used in the manufacturing process and the operation of the business of the manufacturer. Export allowances also apply to manufacturers who qualify for the above incentives.

Companies may qualify for incentives whether or not they have local investors.

## **EXPORT INCENTIVES OR GUARANTEES**

Government does not provide export guarantees, insurance, subsidies or financing for manufacturers for export. Financing is available from the banking sector.

## **STRUCTURES FOR DOING BUSINESS**

A person may carry on business in St. Kitts & Nevis as a sole trader, a partnership, a limited partnership, or a company limited by shares.

### **SOLE TRADERS**

A sole trader is taxed as an individual (see Taxation Section)

### **LIMITED LIABILITY COMPANIES**

#### **(a) LOCALLY INCORPORATED COMPANIES**

Any person or group of persons (under 20 in number) may establish a company to carry on business. Any group of more than 20 persons must incorporate to carry on business.

## **(b) EXTERNAL COMPANIES**

A company which is incorporated in a jurisdiction outside of St. Kitts & Nevis and wishes to carry on business here must register as an external company in the island on which it intends to carry on business. Such registration does not of itself allow the Company to carry on business. Depending on the nature of the business the Company may be required to obtain other licences or permits. There is no legal requirement that a company must have local investment participation in order to register or to be licensed to carry on business in St. Kitts & Nevis.

## **(c) PUBLIC COMPANIES**

A Company which has more than 50 shareholders is deemed to be a public company. A company with fewer shareholders may opt to be registered as or to convert to a public company. The main differences between a private company and a public company are:

1. A public company must have at least 3 directors and at least 2 non-executive directors. A private company may have 1 director.
2. The Secretary of a public company must have certain specified qualifications.
3. A public company must file its audited accounts with the Registrar of Companies
4. A public company must comply with filing and disclosure requirements under the Securities Act.

## **CORPORATE RECORDS**

Every company must maintain a registered office in the island of its incorporation, registers of shareholders, directors and charges and accounting records.

## **COMPANY SECRETARY**

The Company Secretary of any company incorporated in St. Kitts and Nevis must be resident there.

## **ANNUAL RETURNS**

Every registered company (whether private or public, local or external) must file an annual return with the Registrar of Companies.



## **PARTNERSHIPS**

A partnership may be established at common law. No form of registration of partnerships is provided by St. Kitts & Nevis law. Under such partnerships the partners are jointly and severally liable for the debts of the partnership.

## **LIMITED PARTNERSHIPS**

Limited Partnership may be established under the Limited Partnerships Act.

## **TRUSTS**

There is separate legislation in each island for the establishment and registration of trusts.

## **JOINT VENTURES**

There is no business entity known under St. Kitts & Nevis law as a joint venture. Persons wishing to conduct business jointly must use one of the legal entities described above.

## **BRANCHES**

A company registered in a jurisdiction outside of St. Kitts & Nevis may conduct business in St. Kitts & Nevis through a branch office. Such company must register as an external company. The Company is fully liable for the debts of the branch office. Tax implications are described below.

## **BUSINESS LICENCES**

See "Requirements for Establishment of a Business".

## **CAPITALISATION**

There is no law applicable generally to the capitalization of companies doing business in St. Kitts & Nevis. There are capitalization requirements for banks and insurance companies under legislation specific to those industries.

## **REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS**

Businesses, other than those providing financial and telecommunications services, are licensed under the Licences on Businesses and Occupations Act. Every person, whether a citizen or not, is required to obtain a business licence to carry on any business activity identified in the Act.

An application for a business licence is made by submitting the requisite form to the Ministry of Finance. The successful applicant pays an annual fee to government depending on the type of business.

In addition to business licences, every alien must obtain a work permit to work in St. Kitts & Nevis. Application is made by completing and submitting to the Ministry of National Security the requisite form together with together with the supporting documentation outlined in the official government form.

The work permit expires on December 31 in each year. Application for renewal is made to the Ministry of National Security. There is no need to submit the supporting documentation upon renewal applications. The application to renew must be submitted by January 31.

It is not a legal requirement that businesses carry insurance.

### **OPERATION OF THE BUSINESS**

Advertising is restricted in certain contexts. Advertising the sale of securities, for example, is regulated by the Securities Act 2000, the Securities (Advertisements) Regulations 2001 and the Securities (Prospectus) Regulations 2001. In the consumer protection context, under the Consumer Affairs Act 2003 suppliers are prohibited from making false representations in connection with the supply of goods and services or in connection with the promotion of the supply of goods or services. A supplier is also prohibited from engaging in bait advertising.

It is not a requirement that an investor have local counsel. However, in almost all instances, an investor will require advice on local law issues. Local counsel can be found by online searches of the following sites:-

[www.lexmundi.org](http://www.lexmundi.org)

[www.oecsbar.org](http://www.oecsbar.org)

The St. Kitts-Nevis Bar Association has promulgated recommended minimum fees in relation to certain specified matters. Most lawyers apply those fees to the specified matters. In relation to matters not specified in the Bar recommendations, fees are negotiated on a case by case basis.

If a local company is formed through which to conduct business, the Companies Act requires that every company shall keep accounting records which are sufficient to show and explain its transactions and are such as to - (a) disclose with reasonable accuracy, at any time, the financial position of the company at that time; and (b) enable the directors to comply with their statutory duties.

Further, the Income Tax Act empowers the Comptroller of Inland Revenue, by notice in writing, to require any person or the agent or attorney of any person or the secretary, attorney, manager, agent, or other principal officer of any company to furnish him within the prescribed time with— (a) a return of income; and (b) such accounts (including a balance sheet at the terminal date of such accounts) and particulars as may seem necessary to the Comptroller for the purposes of that Act.

These accounts must be in the English language. Accounts must be prepared in accordance with generally accepted accounting principles.

## **CONSUMER PROTECTION**

As indicated earlier, there is in force in St. Kitts & Nevis the Consumer Affairs Act. The Act established the Bureau of Consumer Affairs which is charged with implementing the Act.

The general thrust of the legislation is to ensure that goods and services supplied to consumers meet certain minimum standards which cannot be excluded by agreement and that suppliers not engage in misleading or unconscionable trade practices.

## **CONSTRUCTION**

The cost of construction depends on numerous factors including whether the building is to be used for residential or commercial purposes, topography and soil type of site, finishing, and construction methodology.

No construction can be undertaken until the buildings plans and specification have been approved by the Development Control and Planning Board. Applications are usually dealt with in about 4 - 6 weeks.

## **CONTRACTS**

Subject to the requirement for aliens to obtain a licence to hold any (including security) interests in land in most instances, investors can legally enter into any type of legally enforceable contract.

Contracts entered into here, whether with residents or not, may be stipulated to be governed by the laws of another country so long as that choice is not capricious.

## **REDUCTIONS OR RETURN ON CAPITAL**

Companies formed in St. Kitts & Nevis may only reduce their capital in certain circumscribed cases. In general, they may only do so where the effect will not be to render the company insolvent or unable to meet its obligations as they fall due.

There is no restriction on the repatriation of foreign currency from St. Kitts & Nevis.

## **TRADE ASSOCIATIONS**

The leading business association is the Chamber of Industry & Commerce. Membership is voluntary.

## **LABOUR LEGISLATION & RELATIONS**

The principal legislation governing employer/employee relations is the Protection of Employment Act. However, there are also other laws which impact upon employment relations including the Social Security Act, the Protection of Wages Act, the Labour (Minimum Wage) Act, the Holidays With Pay Act, the Employment of Women, Young Persons & Children Act, and the Labour Act.

Employers must ensure that employees are qualified or trained to perform their duties since employers are vicariously liable for the actions of employees performed in the course of their employment.

Every non-national must obtain a Work Permit or a CARICOM Skilled Nationals Certificate from the Government of St. Kitts & Nevis in order to work in St. Kitts & Nevis.

There are minimum wages stipulated by law in relation to a variety of types of specific employment, e.g. hotel workers, casino workers, restaurant workers, security guards and watchmen, domestic helpers, shop employees and manufacturing sector workers. The national minimum wage is EC\$10.75 per hour, which applies to workers other than the aforementioned specific categories.

The minimum wage regulations also provide for overtime to be paid at premium rates after a specified number of hours are exceeded.

The Holidays with Pay Act requires that employees receive a minimum amount of paid vacation annually. This is a minimum of 14 days per year.

A business is not required to employ a minimum number of employees.

Government's policy has always been that non-national employees (who are not owners of the business) would only be granted permits to work in St. Kitts & Nevis where no suitably qualified or capable national can be reasonably employed to perform the particular job.

The common law and the Protection of Employment Act require notice to be given when an employee is being dismissed other than for cause. The required period of notice depends mainly upon the length of service, but the status of the employee and other factors could also be relevant to the determination of what constitutes reasonable notice in any particular case.

In addition to the giving of notice, or payment of salary and benefits in lieu of such notice, employees who are made redundant are also entitled to receive a one-off payment from a Government-controlled Severance Payments Fund. This Fund is financed by a 1% payroll tax paid monthly by all employers.

Employers will only have continuing obligations to lawfully dismissed employees if the particular employment agreement so provided, e.g. by way of pension rights.

An employee may be dismissed without notice or pay in lieu thereof during the probationary period (which cannot exceed 4 weeks in the case of household employment or 3 months in the case of other employment) or where the employee has engaged in serious misconduct in or in relation to his/her employment.

In addition, notice or payment in lieu of notice is also not required where the employee has received at least two prior written warnings about particular misconduct within the previous 6 months, the latter of which warned of termination in the event of further repetition.

A high degree of freedom of contract is legally available in respect of employment agreements but the Protection of Employment Act makes it unlawful to dismiss an employee on certain specified grounds, including but not limited to: union membership or participation in union activities outside working hours, making a complaint or participating in proceedings against an employer involving an alleged violation of laws or regulations, political opinions or affiliations, race, colour, sex or creed, temporary absence from work due to maternity, illness or injury as certified by a medical practitioner, or absence from work in the performance of jury service.

Where an employer contemplates laying off or terminating more than 9 persons or more than 10% of the employer's workforce (whichever is less), the Protection of Employment Act requires that the Labour Commissioner be notified of this in writing at least 30 days before any such dismissals or lay offs. The Labour Commissioner must be so notified in writing of:

- (a) the reasons for the lay offs or terminations;
- (b) the number and categories of employees affected;
- (c) the period over which the terminations are intended to be carried out; and
- (d) a summary of the results of any consultations with any trade union representing the employees.

The Factories Act imposes certain safety codes in respect of some types of business activities.

Unions are constitutionally and legally recognized as legitimate organizations. Workers cannot be dismissed on account of union activities outside of working hours. The main trade union operating in St. Kitts & Nevis is politically-affiliated to the St. Kitts-Nevis Labour Party, but the two organizations are legally distinct and have their own separate executives.

Legislation provides a mechanism whereby the Labour Commissioner is empowered to conduct polls to determine the percentage of workers in a particular workplace who desire representation by a particular trade union. Employers are not legally obliged to recognize a particular trade union as the bargaining agent for its workers, but the settled industrial relations practice in St. Kitts is for employers to grant such recognition where a majority of employees desire such representation.

Collective agreements are not legally enforceable under St. Kitts & Nevis law unless their terms and conditions are incorporated into the individual contracts of employment.

Traditionally, there are 12 public holidays each year. These include New Year's Day, Carnival Day, Good Friday, Easter Monday, Labour Day, Whit Monday, Emancipation Day, Culturama Day, National Heroes Day, Independence Day, Christmas Day and Boxing Day. In addition, Government sometimes declares additional public holidays to celebrate or mark significant national events.

A comprehensive review of the Labour legislation is currently underway and substantial changes are likely.

## **TAXATION GENERALLY**

The principal forms of taxation currently in effect are corporation tax, payroll taxes, withholding taxes, unincorporated business tax on turnover and VAT. There is no personal income tax on income other than payroll taxes on employees, tax on directors' fees, unincorporated business tax, and withholding tax on dividends and other specified monies paid to non-residents.

## **TAXATION ON CORPORATIONS**

The statutory income tax rate is 25 per cent of the worldwide assessable income of a company resident in St. Kitts and Nevis or in the case of a company which is not resident here 25 per cent of the assessable income of the trade or business carried on by the company here through a permanent establishment in St. Kitts and Nevis. A resident company is a company that is managed and controlled from within St. Kitts and Nevis.

### **CAPITAL GAINS**

Capital gains tax is payable only on profits derived from the sale of a capital item within a year of its acquisition. The rate of tax is 20 per cent of the profit.

### **Value Added Tax (VAT)**

VAT is charged on most goods and services provided by VAT registered businesses or service providers. The standard rate is 17 per cent of the price of the goods or services. The rate on hotel

accommodation and restaurants is 10 per cent of the price charged. Some items are zero rated. For details see [www.sknvat.com](http://www.sknvat.com).

Some items are exempt from VAT including certain types of insurance, transportation, education services, interest on loans, electricity, water, most medical services, most food items, prescription drugs and funeral services.

## WITHHOLDING TAXES

Withholding tax is payable at the rate of fifteen per cent of monies paid to non residents on the following:

- a) Dividend;
- b) Interest, annuity, premium and discount;
- c) Rent, lease, contract and royalty payments;
- d) A natural resource payment;
- e) Commissions, remuneration, fees and licences
- f) Charges for the provision of personal services, commercial advice and managerial skills;
- g) Administration, management and head office expenses;
- h) Profits;
- i) Technical, professional, vocational and any other service fees;
- j) Accounting, actuarial, legal and audit expenses;
- k) Non-life insurance premiums;
- l) Any other annual or periodic payment or distribution
- m) Expenses allocated, reimbursement of costs, expense recharges, shared costs or any other expense of a similar nature
- n) other payment for a service

## PAYROLL TAXES

A Housing and Social Development Levy is payable on all wages as follows:

Housing and Social Development Levy	Employer	Employed Person	Total
Monthly earnings:			
(a) Less than \$1560 per month	3%	NIL	3% of wages
(b) Between \$1560 to \$6,500	3%	3.5%	6.5% of wages
(c) Between \$6,500.01 to \$8,000	3%	10%	13% of wages
(d) Equal to or greater than \$8,000.01	3%	12%	15% of wages



## **TAX ON INDIVIDUALS**

Personal taxation as commonly applied throughout the world on the income of an individual, however derived, was abolished in 1980. There are however specific taxes payable by individuals. These include payroll and transaction taxes listed above and taxes described in the following sections.

### **UNINCORPORATED BUSINESS TAX**

Tax is charged at the rate of 4 per cent on the gross revenue (above EC\$12,500 per month for the sale of goods and EC\$6,000 for services) derived by an unincorporated trader, professional or service provider from a business carried on by him/her in St. Kitts & Nevis

### **TAX ON DIRECTORS**

A director of a company incorporated in, or a resident director of an external company carrying on business in, St. Kitts is liable to tax at the rate of 8 per cent on directors fees. Directors fees are monies paid to a director for carrying out his corporate responsibility as a director. This tax does not apply to the salary or other remuneration paid to a director for management or other services to the company which are taxable as indicated under section above headed "Payroll Taxes".

### **CAPITAL GAINS TAX ON INDIVIDUALS**

There is no tax on any capital gain made by an individual on the sale of an asset. There are however high rates of stamp duty on the sale of real property. These rates range from 10 per cent of the price or market value on the sale of a condominium and most real estate to 12 per cent on the sale of some real property on the Southeast Peninsula of St. Kitts, payable in all of these cases by the seller. There are special stamp duty regimes for the sale of property in some incentivized resorts. These include payments by seller and buyer.

### **PROPERTY TAX**

Property tax is payable by all owners of property with a market value in excess of EC\$80,000. The tax is assessed on the market value of the property and payable annually. Rates are 0.3 per cent for commercial property and 0.2 per cent for residential property.

### **INHERITANCE AND GIFT TAX**

There are no death duties or inheritance taxes.

## **SOCIAL SECURITY SYSTEM**

The Social Security system provides pension benefits for eligible contributors as well as sickness and maternity leave benefits and limited funeral expenses.

Rates of contribution are six per cent by the employer up to age 62 and one per cent thereafter and five percent by the employee up to age 62 up to a threshold in salary of \$6500.

Employee contributions on gross earnings are deducted by the employer and paid monthly with employer's contribution and other payroll taxes described above.

## **OTHER PAYROLL TAXES**

Employers (only) pay one per cent of their payroll into a Severance Payments Fund from which benefits are paid by Government to employees laid off on the closure of a business or other circumstances stipulated by law (e.g. automation, reorganization, etc.).

An employer (only) pays a tax at the rate of one per cent of his payroll into an Injuries Benefit Fund from which benefits are paid by the Government to employees injured on the job.

There is no compulsory workmens' compensation insurance nor are employers required to pay severance payments to laid off workers provided the employer gives the required notice of the lay off or pay in lieu thereof.

## **IMMIGRATION**

### **VISAS**

Citizens of countries whose nationals do not require visas to enter the Federation of St. Kitts & Nevis must have a valid passport and a return ticket to the country of departure in order to enter the Federation. Permission is granted to remain in the country for 30 days only, however this 30 day period can be extended upon application to the Immigration Department.

Citizens of countries whose nationals do require a visa to enter the Federation of St. Kitts & Nevis can apply online on the government's official web-site ([www.gov.kn](http://www.gov.kn)), the web-site of the Ministry of Foreign Affairs ([www.mofa.gov.kn](http://www.mofa.gov.kn)), or the web-site of Communication's Unit of the office of the Prime Minister ([www.cuopm.org](http://www.cuopm.org)).

## **IMMIGRATION REQUIREMENTS**

As previously stated, foreigners are required to make an application to government for a grant of annual or permanent residence or a work permit in the country.

A citizen of a Commonwealth country who has ordinarily resided in the country for a period of 14 years immediately preceding the date of his or her application is entitled to apply to be registered as a citizen of St. Kitts and Nevis.

## **IMMIGRATION CONTROLS**

There are no immigration quotas in the country and applications for a grant of annual or permanent residence or for a work permit are dealt with on an individual basis.

## **CITIZENSHIP BY INVESTMENT**

Under the St. Kitts & Nevis Constitution and legislation, persons may qualify to apply for St. Kitts and Nevis citizenship if they make a substantial investment in St. Kitts & Nevis. Cabinet determines what form such qualifying investment must take and the minimum amount of same.

## **MATTERS OF ESPECIAL INTEREST TO EXPATRIATE EMPLOYEES**

A temporary St. Kitts & Nevis driver's licence must be obtained before driving in St. Kitts and Nevis but such temporary licences are usually issued in reliance upon a valid foreign driver's licence, without the applicant having to undergo any examination.

Educational facilities, both private and public, are available in St. Kitts & Nevis from Pre-School to Tertiary levels. Primary and secondary education is available to citizens of St. Kitts & Nevis free of cost in the public education system. School fees at private educational institutions vary.

St. Kitts & Nevis hosts a University of Veterinary Medicine and more than one Medical University. The students at these institutions are predominantly nationals of countries other than St. Kitts & Nevis, including the U.S.A., Canada, India and African nations.

Given the small size of St. Kitts & Nevis, the housing available to investors and visitors is impressive and varied and includes international hotel chains (Marriott, Park Hyatt and Four Seasons), intimate inns, villas, condominium units and middle-income houses and apartments.

The importation of personal belongings such as motor vehicles and furniture attracts import duties and other similar Governmental charges ranging from 0% to 84%, depending upon the particular items. Personal clothing and other personal effects are not normally charged import duties.

Simple documentation must be submitted to the Customs authorities in order to clear personal effects through Customs. Customs brokers are normally used to process the documentation for the importation of commercial goods.