

CYPRUS INTERNATIONAL TRUSTS

Cyprus International Trusts are governed by the International Trusts Law, 1992 which regulates the establishment and administration of International Trusts. In conjunction with tax planning and business structure may result beneficial to wealthy individuals and their families or even entrepreneurs.

REQUIREMENT TO SET UP AN INTERNATIONAL TRUST

A trust is created by one person ("the Settlor") by a written document ("the Trust Deed") who transfers property to another person or persons ("the Trustee") to hold that property for the benefit of other person or persons ("the Beneficiary/ies").

Such a trust may include property (assets include, inter alia, movable and immovable property, shares or cash) anywhere in the world.

The following requirements are required to set up an International Cyprus Trust:

- (a) The settlor must not be a permanent resident in the Republic of Cyprus;
- (b) The beneficiary must not be a permanent resident in the Republic of Cyprus (charitable institutions are an exception);
- (c) The trust property must not include any immovable property in Cyprus;
- (d) At least one of the Trustees must be resident in the Republic of Cyprus;

DURATION & REVOCABILITY

The perpetuity period of a non-charitable trust can be up to 100 years unless explicitly otherwise provided in the Trust Deed. Charitable and Purpose Trusts (as defined below) may carry out indefinitely.

An International Trust is considered to be irrevocable by the Settlor unless explicitly otherwise provided in the Trust Deed.

TYPES OF INTERNATIONAL TRUSTS

There are various types of trusts that can be set up in Cyprus:

(a) Discretionary Trust

Under such a trust, the Trustees have the discretion to deal with the trust property as they think proper for the benefit of the beneficiaries. It thus grants the Trustees discretion to pay the income or capital of the Trust fund to any or all of a particular class of persons as defined in the Trust Deed. Such a trust is the most commonly used as it enjoys many advantages, such as:

- (i) The Beneficiaries cannot be taxed on the trust fund because they have no legal right in the trust fund until the trustees exercise their discretion to distribute the trust fund to them;
- (ii) The Beneficiaries only have contingent interest in the Trust property and as such the trust assets are not available to any creditors if they go bankrupt;
- (iii) The Trust Deed created is a flexible instrument allowing Trustees to vary the various interests under the Trust when circumstances change, without the need to have recourse to the procedure of variation of the trusts requiring consent of all beneficiaries or seek court action to vary the terms of the Trust.

(b) Fixed Trust

Under a Fixed Trust, the Trustees are obliged to follow the terms of the Trust Deed. As such they do not have any discretion when distributing assets to the Beneficiaries.

(c) Trading Trust

Under a Trading Trust, the Trustee is usually a company which has the power to trade. The advantage is that third parties are not aware of the existence of the Trust as all documentation is used are in the name of the Trustee company.

(d) Purpose Trust or Accumulation and Maintenance Trust

Under such a Trust, the income and capital are accumulated and distributed when infant children attain certain age or a future event (for example, marriage) takes place as provided by the Trust Deed.

ADVANTAGEOUS USES OF INTERNATIONAL TRUSTS

(a) Protection against high taxation

For settlors residing in high taxation jurisdictions, it is possible to minimize their taxation on income or wealth by transferring property to a Cyprus International Trust, as under a proper tax structure they will be able to take advantage of the beneficial double taxation treaty network of Cyprus.

(b) Confidentiality

An individual who wishes to keep the ownership of a company anonymous and confidential, can set up a Discretionary Trust to own shares in this company. Furthermore, confidentiality is absolutely achieved, as there is no requirement to register or publish the financial results of an International Trust. The Deed of Trust is private to the parties concerned whereas in many overseas jurisdictions, when a person dies his will becomes open to public inspection.

(c) Holding property that cannot personally be held

An individual can ensure that minors, mentally handicapped persons or persons that cannot be trusted with the management of the individual's estate are well provided for, even after the individual's death.

(d) Inheritance by precluded persons

An individual can arrange to be inherited by persons, who due to the legislation of the individual's country, would otherwise be excluded from the inheritance.

(e) Promoting causes and charities

Through an international Trust, a person may provide for a charity, promote a religious or artistic cause, or establish a foundation to support a worthy project.

(f) Power to transfer jurisdiction

An International Trust may be transferred to another country's jurisdiction and at the same time a trust established in another jurisdiction may be transferred to Cyprus. This facility will, without much expense or trouble, assist the Settlor wishing to relocate or benefit from the many advantages of Cyprus as a financial center.

(g) Not subject to exchange control

Bank deposits with Cyprus banks, either local or international, are not subject to exchange

control.

(h) No registration or reporting requirements

There are no registration or reporting requirements for International Cyprus Trusts. The names of the Trust or of the persons referred to in the Trust Deed are not disclosed to any authority.

TAXATION

Cyprus International Trusts operate on the basis of International Trusts Law of 1999 which provides that the income and profits of such a trust derived (or deemed to be derived) from a source outside Cyprus are entirely exempt from any tax imposed in Cyprus, including income tax, capital gains tax or special defence contribution, in the hands of both the Trustees and the Beneficiaries.