

Cyprus International Trusts

Introduction

A trust is a Common Law concept which is a legally binding promise, made by a person (the trustee), entrusted with assets to hold and manage those assets, under terms agreed with the original owner of those assets (the settlor), these assets being managed on behalf of persons nominated by the original owner (the beneficiaries).

A trust can be created by deed, in writing, through a will and, with some exceptions, orally.

To create a valid trust the settlor must be of full age, be of sound mind, and have legal capacity. The trust also needs to meet the classic test of the 'three certainties' as established in the case *Knight v Knight ((1840) 3 Beav 148)* :

- It must be clear that the settlor has the intention to create a trust and not any other form of arrangement such as a power of attorney or agency arrangement;
- The assets - or subject - to be transferred to the trust must be fully identifiable and capable of being clearly identified;
- The person – or object - who has a benefit from the trust must be clearly identified, even if they are not mentioned by name;

From time to time, it may be decided to appoint a protector which can limit the powers of the trustee (for instance, the exclusion or adding of Beneficiaries), such powers being subject to the consent of the Protector.

Cyprus International Trusts

Cyprus, being a former British colony, derives its trust law from English common law and equity, which were applied to Cyprus during the British administration of the island. Cyprus enacted its own statute, the Trustee Law (Cap 193) 1955, before its independence, reproducing the provisions of the English Trustee Act 1925.

Today, trusts are governed by the Cyprus International Trusts Law 69(I) 1992 (the "CIT Law") which regulates the establishment and administration of Trusts in Cyprus. The CIT Law was amended in 2012.

The CIT Law has established a modern legal framework designed to make Cyprus an attractive jurisdiction for international trusts, while maintaining compliance with EU law. This, in combination with the stability of its legal system, established network of double taxation conventions and favourable taxation for trusts, has resulted in Cyprus being regarded as a preferred jurisdiction for wealth management, succession and protection structures.

Key Features of the Cyprus International Trust:

- Establishment

According to the CIT Law, to be able to constitute a Cyprus International Trust ("CIT") it is necessary that:

- The Settlor and Beneficiary should be not be a tax resident of Cyprus in the calendar year preceding the year of creation of trust
- At least one Trustee is a permanent resident of Cyprus. This function can be fulfilled by Vistra (Trustees) Limited.

- Duration

All CITs established after the enactment of the amending CIT Law may be established with unlimited duration

- Settlor Reserve Powers

Section 4A of the CIT Law allows a settlor to reserve powers to retain a beneficial interest in trust property, or act as protector or enforcer of the trust without affecting the validity of the trust. This offer settlers great flexibility to adapt to changes in circumstances or objectives, and maintain a sense of control over the trust property.

- Taxation

CITs may be used efficiently for asset protection, asset management, and for estate planning. All incomes of qualifying CITs are tax neutral in Cyprus, provided the beneficiaries remain non-Cyprus residents and the CIT does not have Cyprus-sourced income or immovable property situated in Cyprus.

Types of Cyprus International Trust:

In accordance with the CIT Law, there are several types of trust available, of which two are the most commonly used

- Discretionary Trust – this is the most used type of trust in Cyprus and provides the trustee with the discretion to make payments to beneficiaries on its own judgement. The settlor can indicate its wishes by means of a Letter of Wishes and has the possibility to appoint a Protector.
- Fixed Trust – this type of trust does not give the trustee any discretion when distributing the property of a trust
- Fixed and Discretionary Trust – this is a mixed form of the Fixed and Discretionary Trust whereby the trustee may have the discretion to distribute income for a certain period of time but is ultimately required to distribute the capital in fixed proportions.
- Charitable Trusts and Charitable Organisations – A CIT can also be established for the promotion of charitable and philanthropic purposes, ultimately benefiting the country, a community or even smaller groups of persons, in order to serve a noble and worthy project.
- Private Trust Company (“PTC”) – this is a corporate vehicle incorporated for the sole purpose of acting as trustee for a specific family trust or trusts. Family members may choose to serve on the board of a PTC, which allows for greater control of trust assets within the family. PTCs are often used for in a family business context – i.e. by continuing to hold the shares of the holding of an underlying family business, while allowing for the business to continue to be managed and operated by its existing executives.

Advantages of a Cyprus International Trust

Overall advantages of a CIT include but are not limited to:

- Estate Planning — a Trust may be used as an estate planning vehicle. If a Trust were to be used for the purposes of estate planning, it would not be subject to estate duty in Cyprus.
- Taxes — all income, gains and profits received by the Trust from sources outside of Cyprus are exempt from income tax, capital gains tax or any other tax on Cyprus.
- No exchange control — there are no restrictions in place on the amount of foreign or local currency allowed to be traded or purchased.
- Flexibility — Cyprus law is flexible in that it allows the removal of a Trust from its jurisdiction and vice versa. This could be important in cases where a change in circumstances may render such a transfer advantageous for fiscal or other reasons.

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- Exclusivity— The CIT Law provides that Cyprus law exclusively governs any matter relating to the validity or administration of a Trust, the Trustees' fiduciary powers and duties, and the powers and duties of any Protector.

What are the General Uses of a Trust?

A key reason for electing to use a trust is wealth preservation:

- a trust allows assets to be held by one legal owner indefinitely and avoids an asset being divided up or subject to a forced sale on the death of the owner. For example, a family trading business can continue to trade under the professional oversight of a trustee, with the family still being able to enjoy the benefits of the business without directly managing it or selling it.
- a trust allows an asset to be managed professionally and impartially which can help maximize its economic value and limit unwanted family interference
- a trust avoids family members inheriting excess wealth at a young age, which can be potentially damaging
- a trust can protect the vulnerable members of a family, ensuring that they receive much needed attention through their lives
- a trust can diversify a family's economic or political risk. For example, by having those assets moved to be professionally managed in a tax neutral, secure and highly regulated jurisdiction
- a trust can simplify the succession process – and avoid the need for an expensive probate exercise.
- a trust can also be used to protect against credit claims but cannot be used against paying a legitimate creditor.

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Vistra (Cyprus) Ltd.

Vistra's dedicated team provides trustee and administration services for a wide portfolio of Cyprus International Trusts. Our trustees are licenced and regulated by the Cyprus Securities and Exchange Commission (CySEC) with licence number 74/196.

Our Team

Richard Melton TEP (Executive Director)

Richard began his career in the corporate and trust services industry in 2001, in Gibraltar, and has worked in senior management roles around the world. He became a qualified full member of the Society for Trust and Estate Practitioners (STEP) in 2011, and is also an International Affiliate of the UK Chartered Institute of Taxation.

Yiota Demetriou (Legal Advisor)

Yiota is a legal advisor at Vistra (Cyprus) Ltd, having joined our office in 2020. She a qualified lawyer with a Bachelor of Law from the University of Huddersfield in 2015 and is a member of the Cypriot Bar Association. Yiota is an affiliate member of the Society for Trust and Estate Practitioners and is currently studying for a Diploma in International Trust Management.

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