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Cyprus International Trusts

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Following the reform of the Cyprus International Trust Law that took place in 2012, Cyprus has become one of the most attractive and competitive jurisdictions for the creation of trusts, providing asset protection and the possibility for the creation of wealth-holding structures meeting the needs of individuals worldwide.

The information contained in this summary is intended to outline in general terms the nature of a Cyprus International Trust ("Trust"), some of the potential benefits of a Trust as well as the various steps which are involved in setting up a Trust.

A Trust is a unique mechanism for the protection of property where the "Settlor" the owner of the property transfers ownership of property to the "Trustee". The Trustee has then the responsibility to manage the property for the best interest of the beneficiaries, who have the beneficial interest in the property.

Main parties in a Cyprus International Trust

The Settlor: can be either a natural or legal person who is not resident of the Republic of Cyprus during the calendar year immediately preceding the creation of the trust. The Settlor sets up the Trust, and is the person who owns the property or assets, which will be transferred to the Trust for the benefit of the Beneficiaries.

The Trustee: is a legal or natural person to whom the Settlor's property or assets are transferred. A trustee holds the Trust property for the benefit of the beneficiaries. There can be more than one Trustee in a Trust, however at least one Trustee has to be resident of the Republic of Cyprus having the relevant license to act as a Trustee. We can offer this service through our Trustee Company.

Beneficiary: a legal or natural person, including persons not yet born at the time of the creation of the Trust, or a person who is part of a class of people entitled to a right or interest in the Trust property.

Protector: A person other than the Trustees, who is in the position to monitor Trust activities and to ensure that the Trust is more effectively and properly managed. The Protector has the power to advise a Trustee as to the exercise of the Trustee's powers, the rights of the Trustee in respect of a consent or veto, and includes the right to appoint or remove Trustees.

Main advantages for the creation of Cyprus International Trust

There are a number of reasons why individuals may choose to set up a Cyprus International Trust. Some of the main reasons are that these Trusts provide asset protection, as well as the possibility to manage inheritance and succession matters without having the limitations of inheritance law, since the Settlor has the freedom to choose the beneficiary he/she wishes the Trust property to be held for.

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Family Protection benefits

- To protect assets from claims by undeserving children in certain circumstances.
- To provide for the needs of dependents without giving them the right to demand money or capital.
- To provide flexibility to cater for the needs of beneficiaries at various times in their lives (i.e. children and grand-children)

Asset Protection benefits

Trusts provide a key protection of the Trust property, since following two years from the creation of the Trust, the Trust cannot be challenged by creditors. Therefore, the property can be secured from any challenge by creditors following the two years formation period.

Inheritance and Succession Planning

The Settlor through the creation of a Trust can decide who the beneficiary of the Trust property will be without having any limitations from legislation. The legislation relating to inheritance or succession both in Cyprus and abroad cannot affect the validity of the Trust.

It provides the possibility to the Settlor to give part of its property to a specific person which he/she would otherwise be prevented from doing so subject to inheritance law.

Confidentiality

Trusts have to be registered with the relevant authorities informing them of the details of the Trust, however this information is not of public record, therefore enabling the extent of the Trust assets to be kept confidential.

Flexibility

Trusts are flexible and can therefore cater for unforeseen and differing needs of beneficiaries at various period of time.

Tax Advantages

The taxation on a Trusts depend on the residency of beneficiaries of the Trust.

In the case of a beneficiary who is a Cyprus tax-resident, the income and profits of a Trust derived or deemed to derive from sources within or outside Cyprus are subject to all taxes that are applicable in Cyprus.

In case of a beneficiary who is not a Cyprus tax-resident, only the income and profits of a Trust derived or deemed to derive from sources within Cyprus, are subject to all taxes that are applicable in Cyprus.

The Trustees' role in the Cyprus International Trust:

Some of the main duties and obligations of the Trustees in the Trusts are:

- Managing the Trust;
- Making information available to beneficiaries;
- Acting in the best interests of the beneficiaries;
- Being aware and prudent in relation to tax requirements.

Some of the key powers of Trustees are:

- To make capital distribution;
- To borrow;
- To guarantee;
- To mortgage;
- To employ;
- To invest/ lend money;
- To make payments for/on behalf of beneficiaries.

The Settlor's reserved powers:

Section 4 of the Cyprus International Trust Law provides that notwithstanding the provisions of any other law or regulations, the reservation or granting to a settlor of a trust of any right or interest to the trust property or any of the powers mentioned below, which is reserved to the settlor, shall not in any way affect the validity of the trust nor delay the execution of the trust. The law therefore provides that the Settlor of the Trust may have the following reserved powers:



- (a) The power to revoke, or amend the terms of a trust;
- (b) The power to advance, distribute, pay or otherwise apply income or capital of the trust property or to give directions for the making of such advancement, distribution, payment or application;
- (c) The power to exercise the powers of a director or officer, or issue binding directions as to the appointment or removal of, a director or officer of any company wholly or partly owned by the trust;
- (d) The power to issue binding directions to the trustee in connection with the purchase, retention, sale, management, lending, pledging or charging of the trust property or the exercise of any powers or rights arising from such property ;
- (e) The power to appoint or remove any trustee, enforcer, protector or beneficiary;
- (f) The power to appoint or remove any investment manager or investment adviser;
- (g) The power to change the proper law of the trust or the forum of administration of the trust;
- (h) The power to limit the exercise of any power or discretion of a trustee by requiring that they are only exercised with the consent of the settlor or any other person specified in the terms of the trust.

The Trust Property

The Trust can own any assets – real estate, shares, stock, plant, insurance policies, boats, caravans, investment portfolios etc.

Why Choose a Cyprus International Trust:

It is a simple contract-like document.

- Income and profits of a Trust accrued from sources outside the Republic of Cyprus are not subject to taxation in the case where the beneficiary is a non-resident of Cyprus.
- The assets of the Trust are protected by any claims brought forward two years from the transfer of the property to the Trust.

- Unlike a will, the Trust can transfer property to persons who would have not been allowed to be granted with property due to irresponsibility or incapacity.
- The beneficiaries may be unborn.
- A Trust is not void or voidable and no claim may be raised for its assets in the case of bankruptcy or liquidation of the property of the settlor or in the case of a claim from its creditors, except if it is proven in court that the Trust was formed with the intent of defrauding such creditors at the time of transfer of the assets to the Trust. A claim can only be raised within two years from the transfer of the property to the Trust.

Particulars

- The settlors must not be residents of Cyprus during the calendar year preceding the year of creation of the Trust.
- The beneficiaries must not be residents of Cyprus during the calendar year preceding the year of creation of the Trust.
- Settlers and beneficiaries may take up residency in Cyprus at any time following the creation of the Trust.
- The Trust may hold movable and immovable property in Cyprus, including shares of Cyprus companies.
- The Settlers may reserve powers to themselves, retain a beneficial interest in Trust property, or act as proprietors or enforcers of the Trust.
- There is no limitation on the duration of a Trust.
- The Trust is also protected against matrimonial property and succession laws.
- All transfers of property to the trust are deemed valid except in the case where an intention to defraud is proven.