

**International Trusts**
*October 2006*
**Introduction**
**The concept of trusts generally**

The various types of trust vary in complexity but they have one common fundamental feature. A "person" being either an individual or a company ("the trustee") agrees to hold certain assets ("the trust fund") in its name for the benefit of another person ("the beneficiary") on certain terms and with certain powers (which are usually set out in the Trust Deed). The assets comprising the trust fund are legally held and registered as owned by the trustee and the trustee is under a duty, enforceable in the Courts, to hold those assets and the income arising from them for the benefit of the beneficiary(ies).

The above relationship can be summarised as follows: The trustee has legal title to the trust assets and the beneficiary has beneficial or equitable title (it is the beneficial title which is of value when one is considering asset ownership).

The other important parties of the trust are:

- The settlor. This is the person that creates the trust. In some jurisdictions the settlor could not act as trustee or be a beneficiary. In the Cyprus jurisdiction, the settlor can also be a trustee or beneficiary
- The protector. This is the person(s) that has the power to restrict key powers (such as add beneficiaries, etc.) of the trustee so that they can only be exercised with the consent of suitable person

**The Cyprus International trust**

The international trust which is governed by the "International Trusts Law 1992" is a trust whereby:

- The settlor and the beneficiaries are not permanent residents of Cyprus
- The trust property does not include immovable property in Cyprus
- At least one trustee is resident in Cyprus

The nature of the Cyprus international trust could be "discretionary".

As the name suggests the discretionary trust allows the trustee to exercise a large element of discretion with regard to distribution of income and assets, and to choose from a large "pool" of potential beneficiaries. The selection of beneficiaries from the "pool" could vary every year.

The following benefits relate to Cyprus International Trusts:

- Income, gains and profits are exempted from income tax, capital gains tax, special contribution or any other taxes in Cyprus
- No estate duty or inheritance tax in Cyprus
- No exchange control regulations
- An International Trust may carry out business in Cyprus subject of course to the laws of the country, which are imposed on the beneficiaries and not on the trust itself

- There are no reporting requirements in Cyprus for the International Trusts
- Trust capital received in Cyprus by a foreigner resident or retired in Cyprus from trusts not resident in Cyprus is not taxable on the trustee

#### **Asset protection**

An international trust shall not be void or voidable in the event of the settlor's bankruptcy or liquidation or in any action or proceedings against the settlor or at the suit of his creditors not with standing any provision of the law of Cyprus or any other country.

An International Trust may be set aside by the settlor's creditors to the extent that is proven to the satisfaction of the Cyprus Court that the International Trust was made by the settlor with the intent to defraud the creditors. The onus of proof of this intent shall be on the creditors.

#### **Confidentiality and non-disclosure**

Confidentiality is of paramount importance. No government or Central Bank of Cyprus official may disclose to anybody any information or documents in connection with:

- Settlor
- Beneficiaries
- trustees and their duties
- accounts or property of the trust

However, a beneficiary is entitled to request from the trustees information about the accounts of the trust. Furthermore, the court may order the disclosure of information or documents in criminal or civil proceedings cases, where the disclosure is important.

#### **Stamp duty**

A Cyprus international trust is subject to stamp duty of €427,50. If the trust deed is stamped more than 30 days after the date of creation of the trust, a late payment fine is charged. The amount of the late payment fine depends on the length of the delay.

#### **NOTES:**

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained. Totalserve Management Ltd will be glad to assist you in this respect. Please do not hesitate to contact us.