

Creation of a Cyprus International Trust

A trust generally may be defined as an institution whereby the Settlor (the owner of something - usually a proprietary asset) delivers it or delegates it in the custody of a Trustee for use or for management or for safe custody. In a trust, the legal title to the proprietary asset and any ensuing rights are transferred to the Trustee, who becomes the legal owner for the purpose of its management for the benefit of the beneficiaries. In such a case the Trustee owes fiduciary duties to the beneficiaries.

Three certainties must be cautiously appraised and met so that a trust is valid:

- **The Certainty of Intention:** this refers to the intention of the settlor who is to transfer the property to create a trust. This may be expressed either orally or in writing. Such intention is usually expressed in writing through a trust creating instrument/deed.
- **The Certainty of Subject Matter:** there must be certainty as to both an identifiable property being subject of the trust as well as the portion of the property or ensuing rights that the beneficiaries will receive. Generalities or ambiguity to the description of the subject matter of the trust may lead to the invalidity of the trust.
- **The Certainty of Objects:** this certainty refers to the fact that the trustee should know who the beneficiaries are and they should be identifiable. The beneficiaries cannot be a large or vaguely identified group that the settlor would not be in a position to identify.

Why set up a Trust?

✓ Protection of Assets

A Cyprus International Trust (CIT) helps to protect assets from possible claims as well as to protect the interests of beneficiaries as the assets of a CIT are segregated from the settlor's funds (in case of bankruptcy or liquidation of settlor). A CIT is not subject to contest by the creditors of the settlor unless it is proven at court that the trust was set up to defraud such creditors. Such action may be initiated by the creditors within 2 years from the date of creation of the trust.

✓ Settling of inheritance/succession matters

The inheritance laws of any other country will not be enforced by the Cyprus courts confirming accordingly that the inheritance provisions in succession laws of foreign countries will not apply to risk or upset the validity or enforceability of a CIT.

✓ Tax Planning

Tax imposition (if any) depends on the tax status of the Beneficiary; i.e. if the Beneficiary of such trust is a resident of Cyprus then the income or profits of such trust, which arise in and out of Cyprus, will be taxed according to the laws prevailing in Cyprus. If the Beneficiary is not a tax resident of Cyprus, then solely the income or profits of such trust that arise within Cyprus are taxed according to the tax laws of Cyprus.

✓ Confidentiality protection

Confidentiality and secrecy are preserved under the Law which prohibits the disclosure to unrelated third parties of any information relating to the identity of the Settlor, the Beneficiaries, the Trustees and the property trust unless the above are ordered by the courts of Cyprus (where it is apparent that such disclosure is crucial to the outcome of the court proceedings).

- ✓ **Promotion of a charitable purpose as prescribed by Law**
- ✓ **Management of family property for the benefit of family members, including minors and incapacitated persons**

A settlor may manage his property according to his wishes in perpetuity.

- ✓ **Avoid family disputes**
- ✓ **Commercial purposes**

The trust property may include all kinds of assets and property (movable & immovable) anywhere in the world including Cyprus.

Characteristics of an International Trust

- **Residency Status of Settlers, Beneficiaries and Trustees**

- i. The Settlor, whether a natural or legal person, is not a resident of Cyprus in the calendar year which immediately precedes the year in which the trust was created;
- ii. At least one of the Trustees, during the whole duration of the trust, is a permanent resident of Cyprus;
- iii. No Beneficiary, whether a natural or legal person, other than a charitable institution, is a resident of Cyprus in the calendar year which immediately precedes the year in which the trust was created.

The definition of a “Cyprus tax resident” has the meaning attributed to the term under the Cyprus Income Tax Laws.

- **Duration**

There is no limitation regarding the life of a CIT.

- **Transferability**

A CIT can be transferred to another’s country jurisdiction and vice versa, meaning that a Trust established in another jurisdiction may be transferred to Cyprus.

- **Governing Law**

The Settlor can choose the law that will govern the trust and can alter such applicable law or the forum of administration of the trust at a later stage, subject to certain conditions.

Registration Process

As per the Law Regulating Companies Providing Administrative Services and Related Matters of 2012, as amended, a Cyprus resident Trustee of a trust governed by Cyprus Law is obliged to notify the relevant competent authority (Cyprus Securities and Exchange Commission, the Cyprus Bar Association or the Cyprus Association of Certified Accountants) within 15 days from the creation of such Trust with the below information:

- ✓ The name of the trust
- ✓ The name and full address of the Trustee(s) at all relevant times
- ✓ The date of establishment of the trust
- ✓ the date of any change in the law governing the trust to or from Cyprus Law and
- ✓ the date of termination of the trust.

Any amendments that follow in relation to the trust must also be notified to the competent authority, not later than 15 days of such amendment.

For the purposes of ensuring that information contained in the **Cyprus Trust Registry** kept with the above mentioned competent authorities remains confidential, the Law provides that information contained in the Trust Registries are not available to the public and only the 3 above mentioned competent authorities may access such information.

Additionally, and according to the AML legislation, depending on the set up of the trust, the Trustee is bound to disclose beneficial interest information in the event that the management of the trust is carried out in Cyprus.

N. Pirilides & Associates LLC is in a position to offer the following related services to clients wishing to establish a trust in Cyprus:

- Formation of a CIT
- Support in finding a suitable trust structure to meet client's requirements and wishes
- Drafting of relevant trust deeds/instruments/agreements
- Trust administration and management, compliance with all legal requirements
- Provision of trustee and/or protector services

You may contact our Firm for assistance in relation to the establishment and administration of trusts and our team will be happy to assist you with anything you may require.

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