



Cyprus International Trusts

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Cyprus is a well established and reputable international financial centre offering attractive benefits for setting up and operating an international Trust. Cyprus International Trusts (CIT's), have long provided a high threshold of protection and flexibility for non-residents, and today attract high-net-worth-individuals (HNWIs) from around the world.

The Cyprus International Trust Law has undergone major reform and the amending law introduced in early 2012 (Law 20(I)/2012) is said to have transformed the Cyprus Trust regime into the most modern and favourable Trust regime in Europe. The amending legislation aimed to make CITs more practical, accessible and effective as it is founded on much greater certainty, clarity and stability.

Coupled with a high level of professional services and comparatively low costs, Cyprus is fast becoming the preferred EU Trust jurisdiction for HNWIs and their families.

This guide is intended to provide an outline on CITs and the Cyprus International Trust Law. The guide is, therefore, designed as a starting point for further detailed and comprehensive discussion of the issues and advantages.

The precise benefits of a Trust will depend on the residence and domicile of the Settlor and the Beneficiaries. Common advantages of placing assets into a Cyprus International Trust include:

- Anonymity - a Trust Deed is not a public document. Furthermore, neither the Settlor nor the Beneficiaries will be the registered owner of any Trust Assets, enabling HNWIs to protect their wealth with the strictest anonymity and confidentiality and as a result, a Trust arrangement can be regarded as highly confidential;
- Asset protection - a Trust is an effective way to protect assets from creditors and potential claimants, as the Settlor ceases to own the settled assets, but also from any claims based on a lack of recognition of the Trust, infringement of forced heirship rules (see below), and a personal relationship with the Settlor, such as husband and wife;
- Taxation - a Trust can be a powerful tool in planning for the legitimate avoidance of taxation, particularly for those with international wealth;
- Estate planning - a Trust is a flexible way to provide for the succession of family wealth and, unlike a Will, is not a public document;
- Freedom of choice - a Trust can provide for the transmission of wealth in a manner which may not be otherwise permissible, and to persons in some countries who may not be otherwise entitled;

- Reduced political risk - if the Trustee and the assets are in a stable jurisdiction, a Trust can provide protection against the nationalisation or seizure of assets.

## *The Law*

The legal framework governing the establishment of CITs is based on the Trustees Law, Cap. 193, which largely follows the English Trustee Act of 1925, and the International Trusts Law No.69 (I)/92 as recently amended (the "Law" and "CIT Law"). The principles of equity and case law are also applicable.

In brief, the most important features of the CIT can be summarised as follows:

- Succession laws do not affect the validity of the transfer made to the CIT, as the transfer takes place during the life time of the Settlor;
- The assets settled into the CIT are sheltered against potential claims. Subsequent bankruptcy or liquidation of the Settlor or creditor's action against the Settlor - irrespective of whether the Trust was set up without consideration or to the benefit of the Settlor or his/her spouse or children, unless it can be proven that the CIT was set up with intention of the Settlor to defraud his creditors. There is a two-year time limit from the date of transfer of Trust property into the CIT to file such an action with the Cyprus Courts;
- The Trustee is able to invest Trust funds in any kind of investment. The income is accumulated for the whole perpetuity period with no forced distributions;
- The Law imposes a duty of confidentiality on the Trustee, the protector, enforcer or any other person concerned as regards the identity of the Settlor or of any Beneficiary, the accounts and the assets of the Trust etc. Such information can only be revealed by a court order in any civil or criminal proceedings, if the court is convinced that such information is material to the outcome of proceedings relevant to the Trust property or the parties to the Trust;
- A foreign judgement dealing with any issues of a CIT is not enforceable in Cyprus;
- The amending law of 2012 introduced a uniform tax regime applicable to all persons on the basis of the tax residency test. Income and profits of a CIT which are earned or deemed to be earned from sources within and outside Cyprus are subject to every form of taxation imposed in Cyprus in the case of a beneficiary who is resident there. In the case of a non-resident beneficiary, only Cyprus source income and profits are subject to Cyprus tax.



### *Appropriate jurisdictions for an International Trust*

In selecting the appropriate jurisdiction for the international Trust to reside, an individual should consider a jurisdiction that offers the following:

- Favourable legal framework and existence of specific Trust Law;
- Tax effective treatment of Trusts;
- Cost effective Trust formation and qualified Trustee service providers;
- Political and economic stability;
- No exchange controls.

### *Cyprus: The ideal Trust jurisdiction*

Cyprus has emerged as a leader for International Trust formation and administration as a result of the following:

- The International Trusts Law of 1992, as amended, is based on UK equity principles;
- Cyprus is a full member of the European Union since 2004, contributing to an already stable economic, political and business environment;
- There is no estate duty or inheritance tax in Cyprus;
- No exchange control regulations;
- There are no reporting requirements for international Trusts;
- Cost effective Trust jurisdiction, with easy access and no language barriers;
- Competent and experienced professionals to establish and administer Trust structures.

### *Conditions for establishing a valid Trust*

According to the Law, the following conditions must be met for the formation of a Cyprus International Trust:

- The Settlor, whether a physical or legal person, must not be a resident of Cyprus during the calendar year which precedes the year of creation of the Trust; and
- The Beneficiary(ies), either physical or legal person(s), with the exception of a charitable institution, must not be resident of Cyprus during the calendar year which precedes the year of creation of the Trust; and
- At least one of the Trustees is, for the duration of the Trust, a Cyprus tax resident person.

A Trust can appoint a Protector, a person other than the Trustee, to whom powers of any nature have been granted by the Trust deed, including the power to veto the decisions of the Trustee and also to appoint or cancel the appointment of the Trustee.

Furthermore, for a valid Trust to be created the following criteria must be met:

- a) The Settlor must be of full age and capacity (sound mind);
- b) Three certainties must exist:
  - i. **Certainty of intention:** evidence of express intention of the Settlor to create the Trust. This is usually evidenced by the Trust instrument. The test in determining whether the intention exists is based on the words used and from the behaviour of the parties; there is a distinct and clear intention that the property is to be held on trust for the benefit of a third party. Care must be taken with word choices since precatory words - that is words of mere hope and desire (e.g. "in the hope that", "I would like that" etc.) - are not sufficient to create a Trust;





## *Savva & Associates: A leading provider of Trustee services in Cyprus*

Savva & Associates is a leading provider of Trustee services in Cyprus, with extensive experience in establishing and administering Cyprus International Trusts.

We provide the highest level of quality service which means taking care of all the details:

- Drafting customised Trust Deeds which meet our clients' objectives;
- Holding Trust Assets in secure custody;
- Collecting and distributing interest and dividend income;
- Maintaining accurate records to account for principal and income;
- Preparing clear, user-friendly statements;
- Complying with tax laws and regulations by filing returns and providing tax information to grantors, beneficiaries and others;
- Being sensitive to the needs of beneficiaries in a professional and responsible manner;
- Complying with all bank regulations;
- Maintaining comprehensive insurance coverage for the protection of our clients.

Our team of highly experienced professionals can advise you on establishing a Cyprus International Trust, tailored to your specific business and personal needs.

- ii. **Certainty of subject matter:** this means that the Trust Assets must be readily identifiable otherwise the Trust is void for uncertainty, i.e. can be cash at bank, shares or other movable property, immovable property etc.;
- iii. **Certainty of objects:** the identity of the beneficiaries of the Trust must be ascertained or ascertainable at the time of setting up the Trust. The beneficiaries may be a specified class of beneficiaries that is an ascertainable group of people, i.e. a family, company etc. It is therefore not necessary for each and every potential beneficiary to be identified by the Trustee.

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Please contact Mr. Charles Savva on [c.savva@savvacypus.com](mailto:c.savva@savvacypus.com) to discuss how we can be of assistance to you.

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