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NEW ERA FOR CYPRUS INTERNATIONAL TRUST



Whilst on a plane flying back to this beautiful, sunny island that I call home, I started a conversation with a kind, foreign gentleman who was sitting next to me; a complete stranger at the time. During the usual small talk, he popped the following question: “What is it that you do, Anna?” “Well, basically I serve “trust”, I kindly replied.

I, then, explained to him that I am a lawyer who specialises in professional trust services in Cyprus and that, in essence, people entrust their property into my hands. He paused a bit, looking quite astonished; “Why should anyone entrust their property into your hands and why choose Cyprus for such a service in the first place?” The conversation, then, took a whole new turn.



CYPRUS TRUSTS

A trust is the legal relationship created when a person (*the “Settlor”*) places assets under the legal ownership and control of another person (*the “Trustee”*), for the benefit of other persons (*the “Beneficiaries”*) or for a specific purpose.

Many countries, including Cyprus, offer the concept of trusts, each within their respective domestic legislations and all similar, yet with significant variations that serve a variety of purposes.

The Cyprus International Trust (“CIT”) is an arrangement governed by the International Trusts Law of 1992, as amended (*the “Law”*); a solid and tested law based on UK law and equity principles, which has now increased and has more reinforced dynamics following a major revamp in 2012. It is also worth mentioning that all professional trust service providers are fully-regulated in Cyprus.

BENEFITS OF A CIT

The main benefits of CITs include (but are not limited to):

• Asset Protection

“How comfortable are you that your personal assets are protected and safeguarded against a potential future attack by creditors, business partners or even by family members?”

Asset protection is a paramount consideration for many people. Generally speaking, asset protection involves the placement of one's assets in a legal, practical and efficient manner, beyond the reach of future creditors or other claimants; ultimately protecting them from potential misuse, claims and other vulnerabilities, including forced heirship or matrimonial rules.

One of the main, yet strongest, aspects that differentiates CITs from many other international trusts, which so often constitutes it to be the preferred choice, is that of asset protection. This is supported by the unique, robust and attractive asset protection provisions within the CIT Law.

Specifically, the Law provides that, notwithstanding any laws of Cyprus or any other country, the CIT shall not be void or “voidable” and no claim may be made whatsoever in respect of the transferred assets in the event of the settlor's bankruptcy or liquidation or in any actions or proceedings against the settlor, by also covering cases where the trust is made for the benefit of the settlor, the spouse or children of the settlor, or any of them.

Moreover, it is provided that there is a short limitation period of only two years from the date of the transfer or disposal of the assets into the trust for a creditor to challenge the trust, with the burden of proof lying on the creditor who has to prove to the satisfaction of Cyprus courts that the trust was created by the settlor with the intent to defraud the creditor.

Finally, the Law provides that no disposition of property to such trust shall be void, “voidable” or liable to be set aside by reasons, such as that the applicable laws of any jurisdiction may not recognise the concept of a trust, or prohibit, or make it contrary, or by way of any jurisdictional, judicial or other judgment.

To this end, CITs are often used as an asset protection vehicle by becoming a “firewall” for all of their underlying assets

• Asset preservation for future generations

“Have you ever considered that your kids may be too young to take over the family business or may not even wish to do so in the first place?”

CITs are a way of preserving or even expanding wealth so that future generations can benefit without taking advantage or misusing the assets involved. The trustees, via a suitable drafted trust instrument, customised on a case-by-case basis, may regulate the way assets are used and to what extent and under what conditions they can be distributed to beneficiaries.

• Avoidance of Succession Laws/Forced Heirship Rules

“What if there is an alternative option for you, whereby you could choose who inherits, when and what?”

Many countries have forced heirship rules that do not allow for an individual to decide the way his/her assets are to be distributed and to whom. The Law, on the other hand, contains provisions that the inheritance law of the Republic of Cyp-

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Totalserve Trustees Limited is a company established and duly regulated in Cyprus, dedicated and specialised to the provision of trustee and private client services. The company has been dedicated to the provision of Trustee and Private Client Services, advising our clients on how best to structure and arrange their affairs in a complex, ever-changing and increasingly compliance focused world, by offering unique, specialized services and spherical advice, with the highest degree of personal attention and utmost confidentiality.

rus or of any other country shall in no way affect any transfer of disposition made to a CIT and the validity of such transfer shall not be challenged. As such, CITs provide tractability to an individual, so as to decide how he/she wishes for his/her assets to be administrated or distributed upon death, without the need for going through the Court route, which is a costly and time-consuming process, and perhaps one with an uncertain outcome.

• Incapacity

"Life is beautiful, but also unpredictable. What if you or your loved ones suddenly become incapacitated? God forbid, but it can happen, right?"

Where a beneficiary or even the settlor becomes incapacitated, the trustees can financially support them and take care of their various needs, always subject to the provisions of the trust instrument.

• Tax Planning

After taking into account various aspects from all implicated jurisdictions, CITs can be a dynamic tax planning solution.

Upon the creation of a CIT, the settlor and beneficiaries must not be tax residents of Cyprus during the calendar year immediately preceding the creation of the trust.

And, at that point, the gentleman asked: *"..and what if one such person ever decides to move to Cyprus?"*

After the revamping of the Law, such persons can now subsequently become Cyprus tax residents if they so wish, without compromising the validity of the CIT. As a matter of fact, many foreign individuals have recently done so, especially after the Cyprus tax law introduced the very beneficial concept of *"non-domicile"* persons.

A foreign individual moving his/her personal tax residency to Cyprus is automatically considered to be *"non-domicile"* for Cyprus tax purposes, thus being completely tax exempt from dividends, interest and gains from the sale of shares.

As such, from a Cyprus tax perspective, (taking into account that there is no Cyprus sourced income) and with proper planning in advance, the income of a CIT (whether actually distributed or not) can be completely tax exempt for such persons. At the same time, where the beneficiaries of a CIT are non-Cyprus tax residents, there is also no Cyprus tax consequence for the CIT. However, such foreign individuals must check the relevant applicable tax issues from the country in which they are tax resident.

• Conclusion

The attractive legal framework governing CITs, the favourable tax and corporate regimes, as well as the comparatively cost-competitive advantage that Cyprus has, constitutes Cyprus as a preferred, prime jurisdiction for foreign business people and high net worth individuals.

Over the last few years, the CIT has enjoyed increased momentum and demand, not only through the establishment of new trusts, but also through having foreign trusts *"re-domiciled"* to Cyprus, ultimately becoming CITs.

I am sure you are all wondering how the story with the nice gentleman ends. It does not really matter. What does matter, however, is that you now have the chance to start planning for the future, for the benefit of your family, your business and yourself.

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