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Cyprus International Trusts (CITs) and their effective use

Cyprus is a well-founded and renowned international financial center offering attractive benefits and features for setting up and operating an International Trust.

Briefly, a Cyprus International Trust is a trust whereby:

a. The settlor is not a resident of Cyprus during the calendar year preceding the year of creation of the trust;
b. The beneficiary is likewise not a resident of Cyprus during the calendar year preceding the year of creation of the trust (charitable institutions being an exception to this rule);
c. A minimum of one trustee is resident in Cyprus.

Moreover, unlike many other Anglo-Saxon jurisdictions, in Cyprus trust services are now closely monitored and highly regulated. Every Cyprus resident trustee is obliged by law to register the name of all trusts under their administration (aside from trusts created by Will), the identity and details of the trustee(s) of each respective trust, the date of establishment of such trust(s), the date of change of governing law (if applicable) and the date of termination of such trust(s).

Important benefits and features of CITs

⇨ The CIT law enables Settlors and Beneficiaries to take Cyprus residency (as defined in accordance with the Cyprus Income Tax Laws) after the creation of a CIT and allows the CIT to own immovable property in Cyprus.

⇨ With appropriate drafting, all matters pertaining to a CIT are determined in accordance with the laws of Cyprus and are subject to the exclusive jurisdiction of Cyprus in any proceedings involving rights or obligations under the trust.

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- ⇨ A Trust Deed is not a publicly available or registrable document.

- ⇨ The CIT is an effective way to protect assets as transfer of such assets to a CIT may be set aside and challenged only on grounds of defraud of creditors subject to a two (2) year limitation period from the date when the transfer or disposal of assets was made by the settlor to the CIT and limited to such assets and no other assets settled to the trust from time to time. The burden of proof furthermore lies with the creditors who must prove that the CIT was made with intent to defraud them and that they were creditors at the time when the CIT was set up.

- ⇨ A CIT is furthermore, a flexible tool for estate planning and unlike a Will it is not a public document. Succession, heirship or other laws applicable in foreign jurisdictions or court judgments or orders or arbitral awards or decisions by foreign competent authorities do not affect the validity of a CIT or the transfer or property to the Trustee of a CIT.

- ⇨ The Settlor when setting up a CIT has (amongst other) the right to reserve wide powers including, the power to revoke or amend the trust, to instruct the Trustee, to appoint and remove trustees, the protector or the enforcer, to change the law regulating the CIT or the place of its administration and others.

- ⇨ The law regulating a CIT may be changed to another foreign law offering flexibility in case of immediate need to change the proper law and forum of administration due to a change of circumstances.

- ⇨ The provisions of International Trust Laws of Cyprus apply without reference to other applicable rules of conflict and as a matter of public order.

- ⇨ Under the general law, trustees have an equitable duty to provide beneficiaries with trust information, including the terms of the trust, particulars of the trust property and how it is invested and the accounts of the trust. Under the existing International Trust regime, the trustees' have the power to provide beneficiaries with financial statements or any document or information relating to or forming part of those accounts if the beneficiary has requested them and if, in the trustees' opinion, disclosure is necessary and in the best interests of all beneficiaries.

- ⇨ A CIT allows trustees the same investment powers as those of an absolute owner, allowing them to invest in a broader range of investments for the best interests of the beneficiaries of the trust.

- ⇨ Finally, since the 2012 amendment to the CIT law, a CIT may last for an unlimited period.

Taxation of Trusts

- ✓ Domestic trusts are treated as transparent vehicles for Cyprus income tax purposes (that is, tax is levied on the trust as a proxy for the beneficiaries, as if it's income was income of the beneficiaries);
- ✓ An International Trust provides a number of valuable tax planning opportunities since, income, gains, profits of a CIT deriving from non-Cyprus sources are exempted from income tax, capital gains tax, special contribution or any other taxes in Cyprus to the extent that the Beneficiaries are non-Cyprus residents;
- ✓ No estate duty or inheritance tax applicable in Cyprus
- ✓ The instrument creating an international trust is subject to one-off stamp duty in the amount of EUR430.-
- ✓ 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.

Use of CITs

In conclusion, a CIT can be used effectively for, *inter alia*:

a. Corporate tax planning;
b. To hold property for minors or successive generations of a family
c. Avoidance of forced heirship provisions;
d. Asset protection from potential claims;
e. Succession planning;
f. Pre-immigration planning;
g. Investing in business in Cyprus and/or overseas;
h. Distinguishing oneself from his personal assets as opposed to his business affairs and vice versa.
i. To provide pensions for employees and dependants
j. To make provision for abstract purposes which are not charitable ('the purpose trust')

How can we help you?

Argyropoulou & Associates offers a wide range of private client and trust services locally and internationally, and can assist in:

Trust formation

- Assisting with tailoring trust instruments to explicit client requirements.
- Legal interpretation and opinions on trust validity and scope of powers of trustees, protectors, or ancillary committees under trusts.

- Drafting all related documentation including:
    - letters of wishes;
    - trustee resolutions; and
    - letter(s) of acceptance of appointment of Protector/Enforcer (*where applicable*).

Planning

Tax and estate planning for individuals; succession planning for closely-held businesses; compensation and retirement planning for executives; immigration and tax planning for multi-national families.

Estate and trust administration

We assist high net worth individuals and families worldwide with the accumulation, management, transfer and protection of their personal wealth. We offer comprehensive estate and trust administration services wherever in the world their assets or family members may be to meet all of our clients' planning needs. We also advise executors and trustees in all aspects of estate and trust administration, including probate, forced heirship, estate and inheritance.

Trust advisory

The team is attuned to constantly monitor new developments on the applicable local trust laws including the regulatory and tax legislative framework thus ensuring that clients always receive balanced and versatile advice.

Tax exempt organizations

We advise on the creation and administration of charitable and other tax-exempt organizations around the world.

Trust re-domiciliation

We can finally offer legal advice on and assist with the re-domiciliation of trusts to and from Cyprus.

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