



Practical Note CY 5



Cyprus:
International Trust

Introduction

A Trust is a private arrangement between the Settlor, who is the person or entity creating the Trust by transferring assets to the Trustees, who will be holding and managing these assets for the benefit of the Beneficiaries, separately from their own property. Effectively, the Trustee is the legal owner whilst the Beneficiaries are the beneficial owners. The Settlor may also appoint a Protector to act as a guardian so as to ensure that the Trustees are acting in accordance with his wishes and for the benefit of the Beneficiaries.

The use of the Trust in international business is very popular and Cyprus has become a very important player in this arena, especially after the legal amendments in 2012 in relation to Cyprus International Trusts.

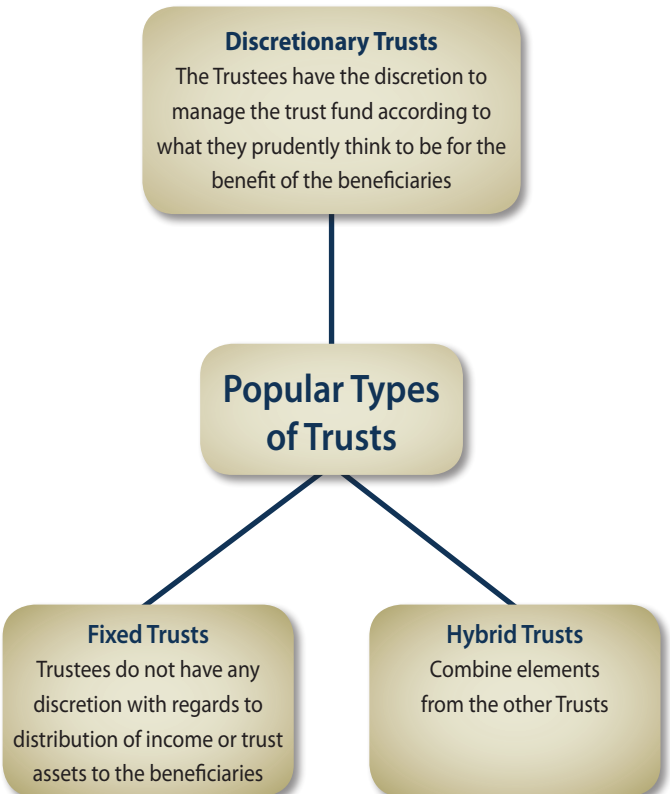
Legal Aspects

The Trust legislation of Cyprus was reformed in 1992 by the passing of the International Trusts Law 1992, which builds on the existing Cyprus Trust Law (Trustees Law, Cap. 193) itself based on the English Law. The Law of 2012 was passed to revamp the existing conditions, aiming to attract foreign investors.

For a Cyprus International Trust:

- The settlor is not a permanent resident of Cyprus in the year before the creation of the Trust.
- The Beneficiary is not a permanent resident of Cyprus (unless a charity) in the year before the creation of the Trust.
- The Trust property can be anything, including immovable property situated in Cyprus.
- At all times, there is at least one Trustee resident in Cyprus.
- The Trust has no limitation as to its duration.
- Income can be accumulated for the whole duration of the Trust.

The Law provides for Charitable and Purpose Trusts, for which special provisions and requirements apply. All other Trusts are distinguished based on the powers of the Trustees, as per the diagram below.



Please note

This publication aims to present a summary of the main provisions and possible or typical solutions in the most plain and practical way possible. Whether or not what is presented could apply to a specific case will depend on its own facts and circumstances. We will be happy to discuss these facts with you and present you with possible solutions, in the most straightforward, accurate and comprehensive way possible. You can find our contact details at the back of this publication.

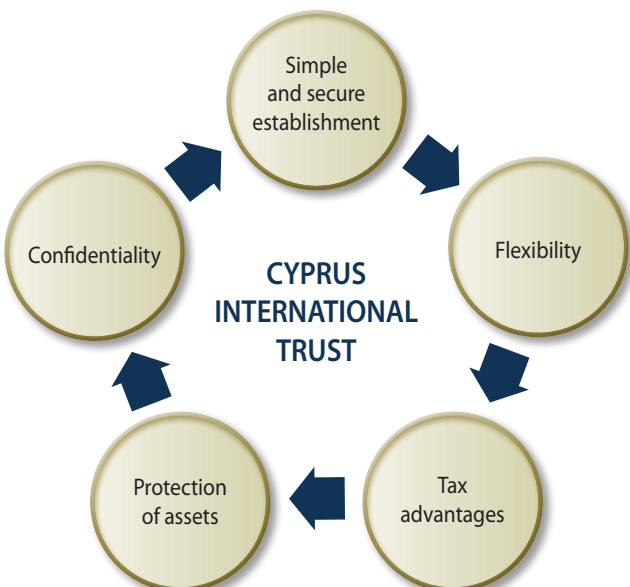
Benefits of using a Cyprus International Trust

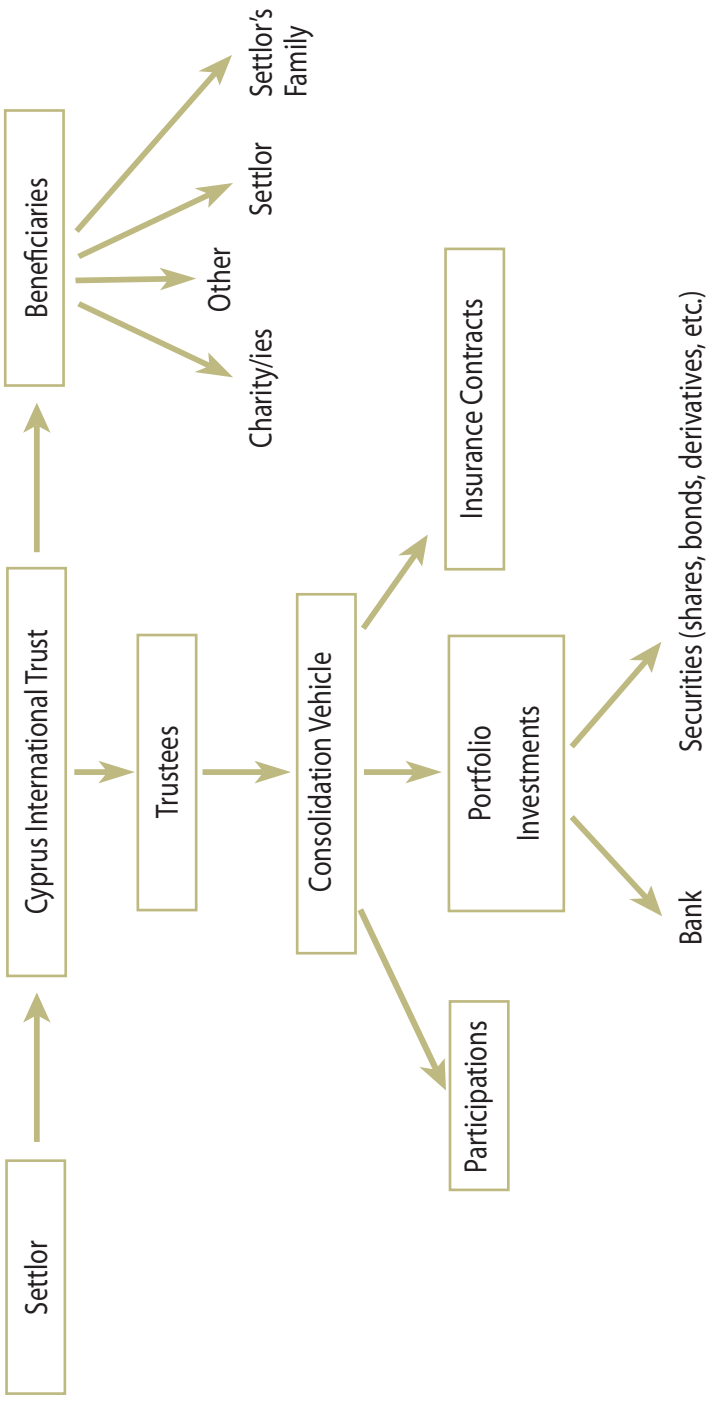
A Cyprus International Trust is exempted from all taxes in Cyprus assuming the Beneficiary is not a tax resident of Cyprus and none of the income/profit of the Trust derives from sources within the Republic. It is also popular for retirement, since a foreigner who retires in Cyprus and creates a Cyprus International Trust is still exempt from tax if all the property settled is out of Cyprus and the income is earned abroad, even if he/she is a Beneficiary.

Another very important aspect is the fact that the Trust remains valid even if the Settlor becomes bankrupt, unless it is proven that the Trust was made with the intent to defraud the creditors of the Settlor at the time of the transfer. Moreover, with the amendments to the legislation in 2012, it is ensured that any forced heirship provisions in succession laws of foreign countries do not apply for the Cyprus International Trust.

Confidentiality is another very beneficial factor related to a Cyprus International Trust. Subject to the terms of the instrument creating such a Trust and assuming there is no Court order for disclosure in accordance with the provisions of the Law, the Trustee, Protector or any person including public servants and officers cannot disclose to any person (unless he/she is legally entitled to), any documents or information related to the Settlor, Beneficiaries, the Trust Fund, and the powers of the Trustees in relation to the Trust and its accounts.

Finally, the fact that there is flexibility in the applicable law and jurisdiction to be applied to the Trust makes it even more attractive. This provision gives the freedom to migrate the Trust from or to another jurisdiction while keeping its history. This could prove to be helpful in cases where the Trust Fund consists of assets in a foreign jurisdiction that is not easily accessed from Cyprus. In such cases use of the specific jurisdiction could be preferred as it would be less complicated, among others, to issue injunctions and serve them.







Tax Issues

The way a Trust is taxed in Cyprus depends on the residency of the Beneficiary. In case the Beneficiary is a tax resident of Cyprus, any income/profits of the Trust that derive from sources both within and outside the Republic will be subject to tax in the Republic. Where the Beneficiary is not a tax resident of the Republic, only income/profit of the Trust deriving from sources within Cyprus will be subject to tax.

Other tax implications related to a Trust are access to Double Tax Treaty benefits, either by the Trust itself or even by an entity placed under the Trust for consolidating all assets and investments in the Trust fund (termed as "Consolidation Vehicle" in the diagram below), access to EU Directives, reporting and other obligations, etc.

Uses of a Cyprus International Trust

- Protection of wealth: ensuring that persons that cannot be trusted with the management of the Settlor's estate (i.e. minors, handicapped persons, etc.) are well provided for, even after the Settlor's death.
- Inheritance/ estate planning: for distribution of the Settlor's estate according to his wishes, which may not comply with his/her local inheritance Law.
- Protection of assets, such as assets acquired while working abroad by expatriates who settle these into a Trust before repatriating.
- As an alternative for a will.

Trustees

The Cyprus International Trust can have more than one Trustee that can be either legal or physical persons. As mentioned above, at all times at least one of the Trustees must be resident of Cyprus.

The Trustee must keep property and records relating to the Trust duly separate from its own property and records.

About us...

Seamark Consultants Ltd was established in 2004 as Fiducenter (Cyprus) Ltd, a name which has been using up until January 2019.

We provide a comprehensive range of international business services related to Cyprus, including setting up and operating a business in Cyprus, becoming a resident, citizen or tax resident of the country, family office, accounting and tax compliance, corporate and secretarial, trustee, professional consultation and much more.

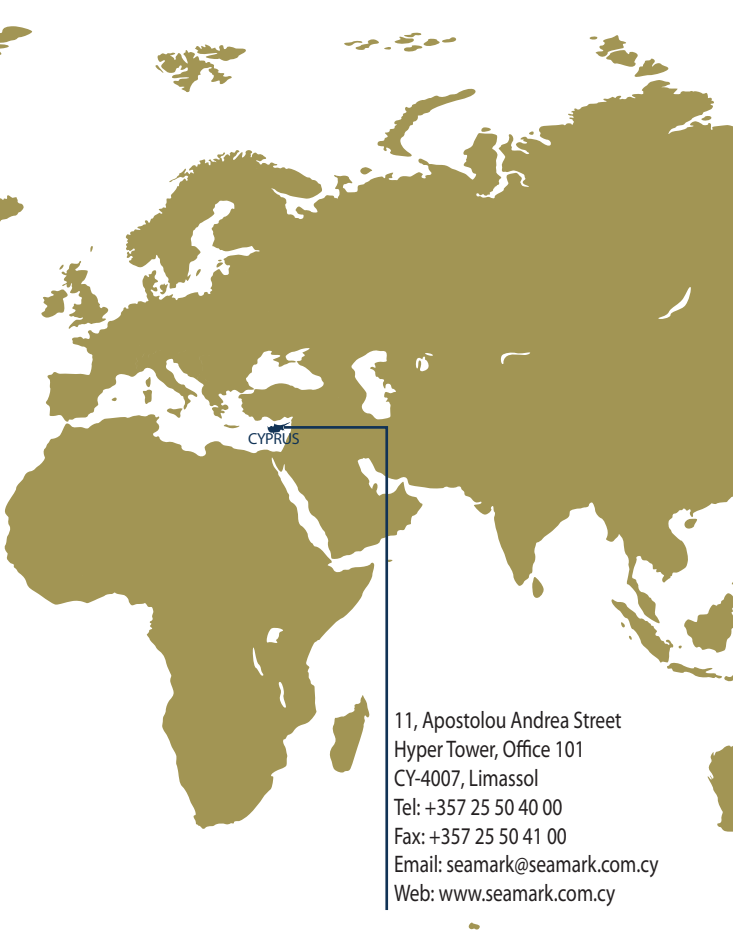
We are one of the very first companies in Cyprus licensed for the provision of Administrative Services and we are a founding member and the First President of the Cyprus Fiduciary Association.

As the human capital is the most important asset for every firm engaged in the professional services industry, our team comprises of highly qualified and experienced professionals including chartered and certified accountants, lawyers and corporate administrators.

Having the provision of top quality, prompt and efficient service as a guiding mark, we aim to help our clients achieve their objectives by creating long-lasting relationships based upon trust, respect, integrity and proactivity.

Our name and brand identity are inspired by what the role of a modern consultant should be...

YOUR MARK FOR A SAFE INTERNATIONAL BUSINESS JOURNEY



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