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CYPRUS INTERNATIONAL TRUSTS

Harnessing Cyprus' Trust Advantages

Cyprus International Trusts: Harnessing Cyprus' Trust Advantages

International Trusts Law 69(I)/1992 ("Law") introduced the concept of international trusts within the legal framework of the Republic of Cyprus with the aim of attracting and offering additional advantages to non-Cyprus tax residents. As a result, the Republic of Cyprus stands out as an attractive jurisdiction for establishing international trusts due to its extensive array of advantages in comparison to other jurisdictions.

What is a Cyprus International Trust?

A Cyprus International Trust ("CIT") represents a straightforward yet powerful legal arrangement. Essentially, it is a legal settlement whereby a person (the "Settlor") transfers the legal title of its assets to another person (the "Trustee") which will hold and use the assets in accordance with the instructions set out in the instrument creating the trust for the benefit of some persons or purpose ("Beneficiaries").

For the establishment of a CIT, 3 conditions must be met:

- The Settlor can be either be a physical or legal person and must not be a tax resident of the Republic of Cyprus during the calendar year preceding the year in which the trust is formed; and
- At least one of the Trustees, must be a tax resident of the Republic of Cyprus throughout the duration of the trust; and
- The Beneficiary can be either a physical (including persons not yet born at the time the trust is established) or legal person, other than a charitable institution, which was not a tax resident of the Republic of Cyprus for the calendar year preceding the establishment of the trust.

Non prohibition of relocation:

The Settlor and Beneficiaries may relocate to the Republic of Cyprus and become tax residents without affecting the validity of the CIT provided that none of them were tax residents of the Republic in the year preceding the establishment of the CIT.

CIT Structure and Characteristics

Trust Assets

The assets to be transferred to the Trustee ('Trust Assets') can include all kinds of assets (movable and immovable) situated anywhere in the world.

Protector

Some CITs may also include a provision for the appointment of a protector who can monitor and regulate the exercise of powers of the Trustees. The trust document can provide that certain actions or powers of the Trustees require the prior approval of the protector.

Trust Instrument

The CIT is established on the basis of relevant legal documentation, usually referred to as a Deed of Settlement, which regulates and governs the operation of the CIT.

Separate Legal Personality

Unlike a company, a CIT does not acquire separate legal personality, which is capable of, inter alia owning property. The legal title of the assets will be transferred to the Trustee(s) who will hold, manage and distribute the Trust Assets in accordance with the terms of the Trust Instrument, for the benefit of the Beneficiaries.

Why set up a CIT?

The Republic of Cyprus is an appealing jurisdiction for international trusts due to the plethora of benefits available thought the establishment of a CIT, which include, inter alia, the following:

1. Asset Protection

CITs effectively safeguard assets from potential creditors and other third-party claimants. The transfer of any asset to a CIT may not be challenged after a period of 2 years from the date of transfer or disposal of the assets to the trust.

Article 3(2) of the Law provides that, notwithstanding any provision of the law of the Republic of Cyprus or of any other country, a CIT is not void or voidable, and in the event of the Settlor's bankruptcy, liquidation or in cases of institution of legal proceedings against the Settlor by his creditors, no claim can be brought with respect to the Trust Assets, except if it is proven by the creditors and to the satisfaction of the Court that the CIT was created by the Settlor with the intention to defraud them

2. Flexibility

The Law allows Settlors great flexibility to define the terms and conditions of the trust, including when and how the Trust Assets are to be managed (including investment and distribution) and who will benefit under the trust.

3. Reservation of Powers

This allows for greater control over the timing and manner of the management of the trust property, ensuring that it aligns with the Settlor's values and objectives. Further, a CIT allows the Settlor to reserve certain powers including but not limited to the power of amending the trust, appointing or removing any Trustee or protector, without affecting the validity of the CIT.

4. Inheritance & Family Planning

A CIT may be used to avoid forced heirship. The Law provides that Inheritance and succession laws of the Republic of Cyprus or that of any other jurisdiction, does not affect in any way the transfer or disposition of the Trust Assets by the Settlor or the validity of the CIT. CITs avoid lengthy proceedings because the Trustee distributes the Trust Assets according to the trust instrument and in consideration of the Settlor's wishes, without the need for any court intervention. Additionally, CITs facilitate ownership of property to be enjoyed successively especially in a family setting, avoiding delays and further costs.

The CIT may also be employed in circumstances where the Beneficiaries are considered "spendthrift". Accordingly, the Settlor has the discretion to provide specific instructions to the Trustee(s) regarding the disbursement of Trust Assets to the Beneficiaries, either according to a specified timeline or contingent upon certain conditions. This ensures that the Trust Assets are better preserved for the Beneficiaries' benefit.

5. Duration of a CIT

Unlike common law trusts, a CIT may continue in perpetuity. The equitable rule against perpetuities is not applicable.

6. Investment

CITs may permit Trustees to invest in any property, whether movable or immovable, situated anywhere in the world including the Republic Cyprus. Accordingly, income can be accumulated for the benefit of the Beneficiaries throughout the period of the CIT.

Why set up a CIT?

7. Confidentiality

CITs safeguard confidentiality and privacy, effectively concealing the identity of the true property owner. The Trustee appears as the legal owner of the assets and the public remains unaware of the beneficiaries of the trust. Unlike a probate, which is a public process, trusts operate outside of the public domain, allowing Settlors to maintain confidentiality regarding their affairs.

A CIT has to be registered with the relevant supervisory authorities (Cyprus Bar Association ("CyBar"), the Institute of Certified Public Accountants of Cyprus ("ICPAC") or the Cyprus Securities and Exchange Commission ("CySec") depending on who acts as the Trustee. The information disclosed for supervisory purposes is limited in scope and is not accessible to the public.

In addition, particulars of the trust and its beneficial owners must be submitted to the Trust Register maintained by CySEC. Access to this information is restricted and is not available to the general public, save for persons who can demonstrate a "legitimate interest" as defined under applicable legislation, namely a genuine interest connected with the prevention and detection of money laundering and terrorist financing.

8. Tax Benefits

Income and gains of a CIT from sources outside the Republic of Cyprus are not subject to any tax, provided that the Beneficiaries are not tax residents of the Republic of Cyprus. Additionally, there is no inheritance or wealth tax in the Republic of Cyprus.

How can we assist?

We, as a certified and registered service provider, can help you create and establish a CIT tailored to your needs, provide legal advice, and ensure compliance with all legal requirements throughout the duration of the CIT, including its setup and registration. Additionally, we are duly licensed to provide fiduciary services in relation to the trust.

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