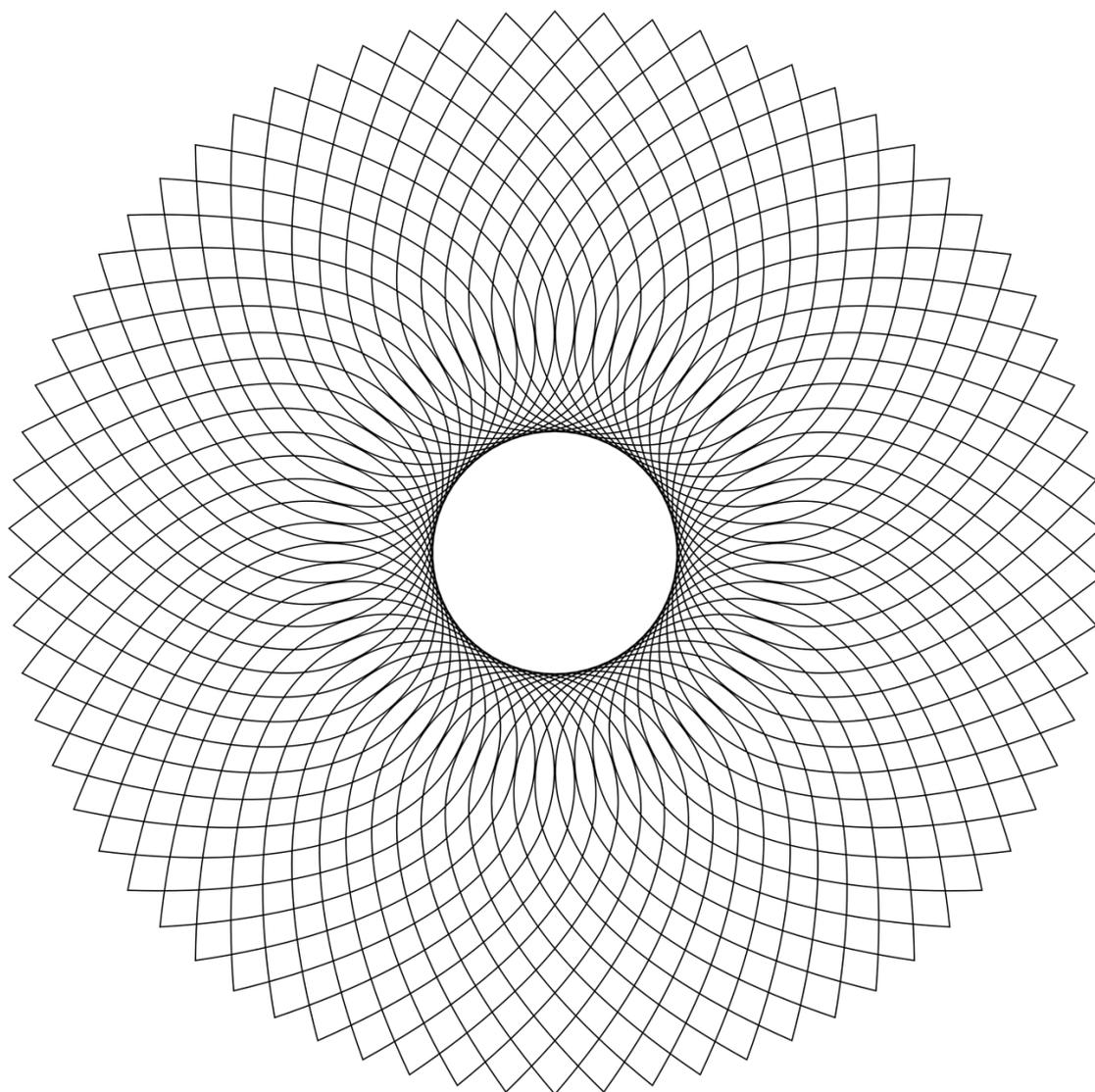


Cyprus International Trusts



Introduction

Cyprus is a reputable international financial centre, which has one of the most preferential business environments and tax regimes of the European Union to set up an International Trust.

The International Trusts Law provides maximum protection and flexibility.

The main legal framework governing trusts in Cyprus is the Trustees Law of Cyprus (Cap 193) and the International Trusts Law of Cyprus (Law 69(I) of 1992 as amended by Law 20(I)/2012).

Cyprus International Trusts Law

In order to establish an international trust the following conditions must apply:

1. The settlor must not be a Cyprus resident in the year preceeding the year of the formation of the trust. This person must be of full age and capacity to transfer property
2. The beneficiaries must not be residents of Cyprus in the year preceeding the year of the formation of the trust. Charitable institutions are exempted from this rule
3. At least one of the trustees must be a resident of Cyprus at all times.

Also, the following 3 certainties must exist:

1. Certainty of intention – the intention of the settlor to create the trust must be clearly identifiable (usually by the trust instrument), although trusts can be created orally
2. Certainty of subject matter – the value of the assets to be contributed as the trust property must be readily identifiable in money terms
3. Certainty of objects – the identity of the beneficiaries must be established during the process of the formation of the trust.

Duration of the trust

The amended Law of 2012 provides that an International Trust may last forever, provided that this condition is stated in the Trust Deed.

An International Trust can be subject to revocation by the settlor's creditors only if the creditors can prove that the trust was created intentionally to defraud them. The creditors, specifically and not anyone else, must prove such an intention.

Registration

Information on Cyprus International Trust establishment, such as name of the Trust and the date of establishment, need to be submitted/disclosed to the Cyprus Authorities within 15 days from the Cyprus International Trust establishment.

Cost

The cost for registering a Cyprus International Trust is €430 stamp duty fee.

Terminology of parties

Settlor

The settlor is the person who creates the trust and contributes the asset(s) to the trust to be controlled by the trustees for the benefit of the beneficiaries. The settlor can be either a natural or legal person; but must not be Cyprus resident during the calendar year immediately preceding the creation of the international trust.

Beneficiaries

The beneficiaries are the legal owners of the income generated by the trust assets and also the end owners of the trust assets after the termination of the trust. The beneficiaries, whether natural or legal persons; must not be Cyprus residents during the calendar year immediately preceding the creation of the international trust.

Trustees

The trustees are the nominal owners of the trust assets, however, they have obligation to act for the benefit of the beneficiaries according to the trust deed. At least one trustee must be a Cyprus resident during the whole duration of the trust. The trustees are not entitled to payment for their services provided to the Trust, unless the trust deed provides for such a payment. The trustees are not personally liable for their actions in relation to the trust, unless they act beyond their powers or in a way that is not in accordance with the trust deed.

Protector

The protector is not mandatory for an international trust, however, (if appointed) can restrict key powers of the trustees. The protector can be the same person with the settlor, so that the settlor can have better control of the decision making.

Types of Trusts

The Cyprus International Trusts consist of the following types:

Discretionary Trust

The trustees use their discretion to handle the trust property in a way for the benefit of the beneficiaries. The trustees use their discretion in deciding whether to pay any income or capital to the beneficiaries. No taxation is imposed on the beneficiaries on the trust funds until the trustees exercise their discretion to distribute any funds to the beneficiaries.

Fixed Trust

The trustees are obliged to follow the terms of the trust deed and they have no discretion in distributing the trust funds/assets to the beneficiaries.

Trading Trust

Under this type of trust the trustee is a limited liability company with the rights of carrying on business and trade. All documentation is issued on the company's name (trustee) without the disclosure or known of trust existence.

Purpose Trust

Under this type of trust the income or capital funds of the trust are distributed to the beneficiaries if certain events occurred as declared in the trust deed.

Charitable Trust

Charitable trusts are set up for certain public purposes in order to contribute and help the society and community in certain ways. Charitable trusts are set up for the relief of poverty, for educating populations, for medical assistance of poor countries, etc.

Advantages

The major advantages for setting up a Cyprus International trusts are described below:

Asset protection

An individual (settlor) transfers the ownership of his/her personal assets to the international trust and thus protecting the assets from any creditors' claims, bankruptcy claims, litigators, etc. Transferring the ownership of the assets on the international trust is challengeable and subject to revocation (as described above), if the transfer is done to defraud the creditors or protect the assets from an existing legal claim.

Pre-Migration arrangement

High net-worth individuals who wish to move/relocate to a high tax country is of their benefit to transfer their assets to a Cyprus international trust before their move/relocation, in order to be benefited from the low tax regime of Cyprus.

Overseas investments

Individuals, who wish to invest in overseas businesses and wish the profits and dividends received not to be remitted to the country of residence, may set up a Cyprus international trust, which will also enable them to retain a flexibility of their overseas funds.

Estate planning

An individual can arrange its succession and inheritance planning without being affected by any country's inheritance laws and jurisdictions, by setting up a Cyprus international trust.

Flexibility

A Cyprus international trust may be moved to another country/jurisdiction and a trust from another country/jurisdiction may be moved to Cyprus.

Taxation

Taxation of Cyprus International Trusts is considered on the basis of the beneficiaries' residence.

Income and gains of an international trust from sources within Cyprus will be subject to taxation in Cyprus, if the beneficiaries are non-Cyprus residents. Income and gains of an international trust from sources within and outside Cyprus are subject to any taxation imposed in Cyprus, if the beneficiaries are Cyprus residents.

Cyprus international trusts are eligible for double tax avoidance, subject to the conditions of the double tax treaty with the other country.

Cyprus international trusts are subject to taxes such as VAT and stamp duties for their activities in Cyprus. International trusts are subject to immovable property tax for properties situated in Cyprus, irrespective of the beneficiaries' residence. Also, international trust is subject to capital gains tax on the disposal of immovable property situated in Cyprus or in the case of the disposal of company's shares holding immovable property situated in Cyprus. All other capital gains taxes are exempt from Cyprus tax.