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TRUSTS

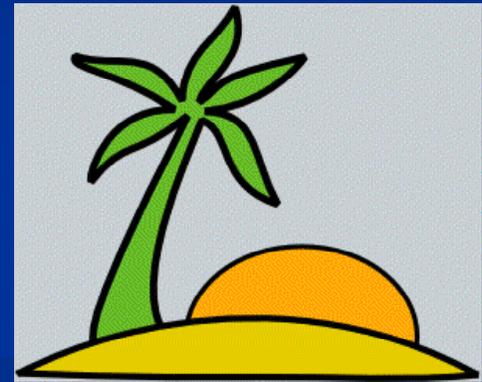
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Introduction

- Who is a Beneficial Owner
- What is a Trust
- How You Can Benefit from Using a Trust
- How to Set up a Trust



Who Is a Beneficial Owner?

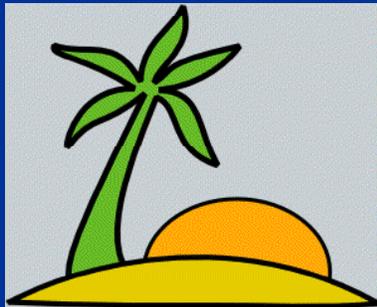


A natural person who ultimately owns, or controls an entity

Imagine a Situation

Benefits

Control



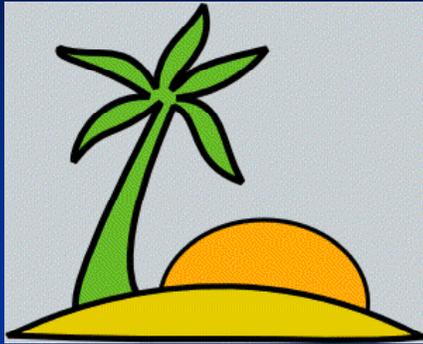
What is a Trust?

A trust is created when

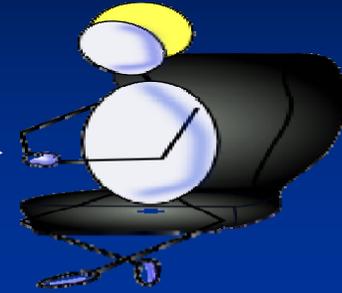
- one individual – **THE SETTLOR** – transfers part of his assets to
- an individual or Corporation – **THE TRUSTEE** – to control and manage on behalf of
- a further specified individual or group of individuals – **THE BENEFICIARIES** –
- in accordance with **THE TRUST LAW** and terms of **THE TRUST DEED**



A Trust Is Created (Settled)



Trust asset



Trustee



Settlor



Beneficiaries

Features of a Trust

- Legal ownership passes to the Trustees
- Sometimes registered with the authorities
- Originates from the middle ages during the Crusades
- A Trust is a common law concept
- Widely accepted in civil law jurisdictions
- Differs from Foundation (a civil law concept)
- Finite life (80 to 100years)



Parties to a Trust

- Settlor
- Trustees
- Beneficiaries
- Protector

The Settlor

- **The Settlor** is the person who donates the assets to **a Trust**
- Must have good title and legal capacity to make the gift
- Settlor no longer has ownership and control of assets



Trustees



- **The Trustees** are the legal owners of the assets who have the duty of administering the trust in accordance with the terms of the trust deed and the trust law in the interest of **The Beneficiaries**
- Can be individuals, but more likely to be a regulated corporate trustee
- Trust assets are separated from trustee's assets

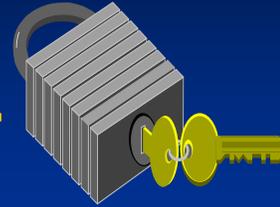
Beneficiaries

- **Beneficiaries** are persons entitled to benefit from the trust
- Can include the **Settlor**
- Can have Companies and Trusts as beneficiaries
- Must be defined or defined class of beneficiaries



Protector

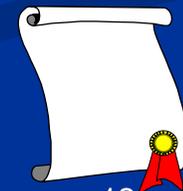
- Trust Deed can have optional **Protector** clause
- Protector can have certain powers such as to change **the Trustees** or rights of veto
- Usually a well trusted friend or professional adviser
- Cannot be “in the back pocket” of **the Settlor**





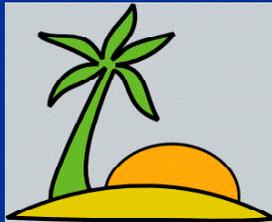
Trust Documents

- Trust Deed
 - Document which sets out the terms upon which ownership and control is passed to the trustees
 - Should cover Trustees powers and duties, as well as their rights relating to the assets and income generated
 - May be changed by Deed of Variation
- Letter of Wishes
 - Sets out Settlor's wishes as to the disposal of the Trust assets
 - Not a legally binding document, but intended for the guidance of the Trustees



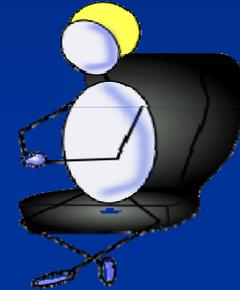
Benefits of Trusts

Benefits



Joy of
Ownership

Control



Risks of
Ownership

Uses of Trusts

- Tax planning
- To hold underlying companies
- Wealth preservation
- Selective asset distribution
- Creditor protection
- Property holding
- Investment holding
- Contingency planning
- Anonymity



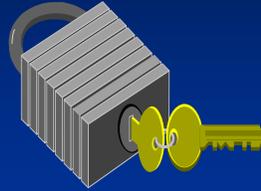
Discretionary and Irrevocable Trusts

- The most flexible and popular type of trust
- The trustees have wide powers of discretion enabling them to decide who benefits, when and by how much
- Can't be cancelled at Settlor's request



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A word of caution on set up and maintenance of trusts

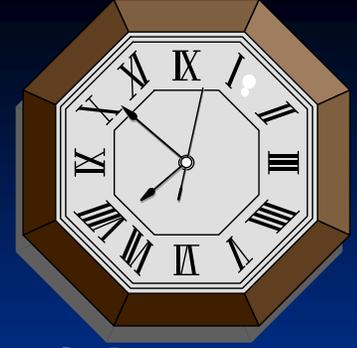


- Offshore Trusts have recently attracted attention from high tax onshore jurisdictions
- Some jurisdictions have provisions to capture settlors and beneficiaries
- Care needed when settling trusts
 - Dummy settlors / resident settlors can be transparent/settlor must be genuine
- Care needed when creating beneficiaries
 - Care discretionary /dummy beneficiaries /possible use of hybrid
- Skillful administration essential

Safeguards

- Many jurisdictions have modern purpose drafted trust laws to protect legitimate users
- Many jurisdictions have stringent regulations covering fiduciary service providers
- Optional protector
- Settlor can be a beneficiary
- Beneficiary have certain remedies

Conclusion



- Trusts provide an excellent and flexible tool for a variety of purposes
- Many planning opportunities available
- Trusts separate legal and beneficial ownership
- Good for asset protection
- Good for tax planning

Thank you for listening



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