The Global Guide to Trusts

A SYSTEMATIC ANALYSIS OF THE LEGAL REGIME AND TAX TREATMENT OF TRUSTS IN 28 JURISDICTIONS

Second edition
Edited by Jean-Marc Tirard
For each jurisdiction, the author answers the same set of 27 questions.

Legal considerations
1. What is the legal system based on in your jurisdiction?
2. Is the concept of trust part of your domestic law?
3. Has your country ratified the Convention on the Law Applicable Trusts and on their Recognition?
4. When the answer to the above two questions is negative, is a trust created under foreign law recognised as such? Alternatively, is the trust (or trustee) analogised to any specific type of domestic person or comparable entity?
5. Are there “similar” or comparable legal structures which can be used in your jurisdiction instead of a trust for estate planning purposes?
6. What legal constraints should be taken into consideration when transferring assets into a trust?
7. Can a trust acquire property in its own name and be registered as such when registration is required? If not, can this be achieved indirectly?
8. Under what circumstances might a trust be set aside in your country on grounds of sham or for any other reasons?

Tax considerations
9. What are the main taxes which are relevant in respect of trusts?
10. Has your jurisdiction developed specific tax rules to deal with trusts?
11. Are domestic and foreign trusts treated differently in relation to tax?
12. When is a trust considered to be resident for tax purposes in your jurisdiction?
13. Are the tax treaties concluded by your country applicable to trusts?
14. Are there any specific anti-avoidance tax rules applicable to trusts? Are there circumstances under which trusts are at risk under GAAR or anti abuse of law measures?

Tax treatment of the creation of a trust
15. What are the tax consequences of the creation of a trust?
16. Are any transfer and/or capital gains tax due upon lifetime or testamentary transfers of assets to trusts?
17. Is the treatment different depending on whether the transfer is made to a revocable or irrevocable trust? To a life interest or to a discretionary trust?
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