



Trust and Corporate Solutions

Trusts in the Isle of Man

What is a trust?

A trust may be described as an arrangement by which one or more persons (the “trustees”) agree to accept property from another (the “settlor”) and to deal with that property for the benefit of one or more persons (“beneficiaries”) who may or may not include the settlor. If created during the settlor’s lifetime, a trust will be established by deed and may take the form of a declaration by either the settlor or the trustees. The trust deed will contain the terms on which the trustees are to hold the property, the powers the trustees may exercise and details of any protector (being a person appointed to monitor the actions of the trustees). It is also possible for a trust to arise on death and specific trust provisions are often incorporated in a person’s will.

Types of trust

DISCRETIONARY TRUST

A “discretionary” trust is a trust under which the trustees have discretion concerning the distribution of trust income. The trust deed will specify a class of beneficiaries and, in a typical case, the trustees will periodically decide whether to distribute trust income to one or more of the class or to retain it and add it to the capital of the trust fund.

The trustees’ discretion may also extend to the distribution of capital. In most cases, the settlor will provide a “letter of wishes” to the trustees indicating which of the beneficiaries he/she would most like to benefit (and how) during his/her lifetime and following his/her death. Whilst a letter of wishes can assist the trustees in deciding how to exercise their discretion, it cannot bind them to act in accordance with its terms.

INTEREST IN POSSESSION TRUST

An “interest in possession” trust or “fixed interest” trust is one under which a particular beneficiary is entitled to

the net income of the trust for a specified period. In most cases, the entitlement or “interest” will continue for the life of the beneficiary (a life interest) and on his/her death the trustees will have discretion to distribute the trust income amongst a class of discretionary beneficiaries or retain it and add it to capital. It is possible to provide for a further life interest in favour of, for example, the beneficiary’s spouse to arise on the death of the beneficiary. A power to advance capital of the trust fund to the person holding the life interest can also be included.

PROTECTIVE TRUST

A protective trust is a trust under which a beneficiary is given a life interest which ceases upon the occurrence of one or more specified events (e.g. bankruptcy of the beneficiary), following which the income of the trust is held on discretionary trust for a class of discretionary beneficiaries (which could include the beneficiary concerned). Protective trusts are commonly used for children, disabled persons or other persons who might be incapable of handling their own affairs, but whom the settlor would wish to support financially.

Why create a trust?

There are many reasons why a person might wish to create a trust. Some examples of common uses would include:

MITIGATION OF TAX LIABILITIES

Transferring assets to a trust can be an effective means of reducing taxation on those assets, for example estate planning where a person wishes to provide for future generations in a tax efficient manner or UK capital gains tax planning for non-UK domiciled individuals. The tax mitigation that can be achieved in any particular case will depend on a number of factors, for example the residence and domicile of the settlor and beneficiaries or where the assets are situated. Abacus has a close working relationship with a network

of experienced tax professionals in the Isle of Man and elsewhere, who can advise on individual cases and trusts can be tailored to suit particular needs. Abacus also deals with UK and Isle of Man tax reporting for the trust as necessary.

PRESERVATION OF FAMILY WEALTH

By setting up, for example, an interest in possession trust, a settlor can ensure that a particular individual is well provided for whilst preserving the family's assets for future generations.

FORCED HEIRSHIP

The inheritance rules of some countries impose restrictions on a person's ability to give assets to persons whom they wish to benefit whilst certain relatives are still alive. Depending on the circumstances of the particular case, use of an Isle of Man trust may enable such benefit to be validly conferred under Isle of Man law.

The Isle of Man and setting up a trust

The Isle of Man is a highly favourable jurisdiction for creating a trust. Manx trust law is very closely based on that of England and Wales, the main difference being that in the Isle of Man there are no restrictions on the period for which income may be accumulated in a trust.

There is no requirement in the Isle of Man to make any public disclosure or filing in relation to a trust. There is no legal requirement for an annual audit but this can be specified by the trust deed, if required. Provided none of the beneficiaries nor the settlor is resident in the Island (and the only income that will accrue from sources within the Isle of Man is either dividends or interest from approved financial institutions (for example banks), the trust will not be subject to Isle of Man income tax. In addition, there is no capital gains tax, inheritance tax or death duties in the Isle of Man.

Abacus Trust Company Limited

Abacus Trust Company Limited ("Abacus") acts as trustee for the majority of trusts we administer. In 2001 Abacus was approved by the Isle of Man High Court as a "trust corporation" for the purposes of section 65A Trustee Act 1961. Since the introduction in 2005 in the Isle of Man of statutory regulation of trust service providers, and the amendment of section 65A Trustee Act 1961, Abacus has been licensed by the Isle of Man Financial Supervision Commission as a Trust Corporation. If circumstances require, we can incorporate a special purpose vehicle as a trustee to act with Abacus or alone as the case may be.

Use of a corporate trustee rather than individuals is beneficial in that decision makers and signatories are always available to carry out important transactions on behalf of the trust. The settler and beneficiaries of each trust will, however, be assigned key contacts within Abacus to ensure a personal service.

There are rare occasions where individual trustees are required and, in these circumstances, directors of Abacus may act as trustees.

Further Information

For further information about Trusts in the Isle of Man or any other service in the Trust and Corporate Solutions range, please contact Abacus Trust Company Limited:

Telephone: +44 (0) 1624 689600

E-mail: email@abacusiom.com

Website: www.abacusiom.com



Abacus Trust Company Limited, Sixty Circular Road,
Douglas, Isle of Man, IM1 1SA, British Isles

Telephone: +44 (0) 1624 689600 **Fax:** +44 (0) 1624 689601

Email: email@abacusiom.com **www.abacusiom.com**

Abacus Trust Company Limited is licensed by the Isle of Man Financial Supervision
Commission as a Corporate and Trust Service Provider.



A member of Nexia International,
a worldwide network of independent accounting and consulting firms.



LARGE ORGANISATION OF THE YEAR

This brochure is for general
guidance only. Action
should not be taken, or
refrained from, without
obtaining specific advice.

Copyright © 2008 Abacus
Trust Company Limited.
All rights reserved.
Printed in the Isle of Man
January 2008.



INVESTOR IN PEOPLE