



# Cyprus International Trusts

International Tax and  
Corporate Services



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**Cyprus offers a solid legal system which renders a Cyprus International Trust (CIT) the ideal tool for implementing investment structures, consisting of an asset protection vehicle and a means of inheritance succession planning.**

## **Tax Treatment**

CIT and beneficiaries thereto are not subject to any income tax in Cyprus if the trust income results from sources abroad and the property of an international trust is not subject to capital gains (if located abroad) or inheritance tax. Thus, the necessary environment is created for foreign investors to establish international trusts in Cyprus, giving freedom of movement of funds.

Subject to the provisions of the immediate preceding paragraph, the CIT is not liable for the payment of any tax in Cyprus and, although it does not benefit from the double tax treaties itself, it could constitute a valuable tool for the international tax planner taking advantage of the availability of such tax treaties along with the favourable tax status in Cyprus; using the same in investment structures, through a Cyprus Holding Company, which enjoys tax free capital gains and dividend receipts and benefits from such double tax treaties network.

## **What Constitutes a CIT**

For a trust to qualify as an "International Trust" the following conditions need to be satisfied:

- a. The settlor and beneficiary, (either natural or legal persons), other than charitable institutions, must not be residents of Cyprus\* in the year preceding the year of the creation of the Trust. Nonetheless, the validity of the trust will not be affected if the settlor and/or beneficiary relocates to Cyprus after the creation of the trust.
- b. At least one of the trustees must at all times be a permanent resident of Cyprus.

\* "Resident of Cyprus" has the meaning assigned to the term of the Income Tax Law being any individual person who resides in the Republic for more than one-hundred and eighty-three days in the aggregate in any calendar year or a company which is managed and controlled in the Republic. However, in the instance of an individual who does not stay in any country for one or more periods exceeding in the aggregate 183 days in the same tax year and is not a tax resident in any other country for the same year, is deemed to be a resident in the Republic in that tax year, if all of the following conditions are met:

- The individual stays in the Republic for at least 60 days in the tax year;
- Exercises any business in the Republic and/or is employed in the Republic and/or holds an office with a Cyprus tax resident person at any time during the tax year;
- Maintains (by owning or leasing) a permanent home in the Republic.

## **Dispositions to a CIT**

A settlor has the ability to dispose his/her assets to a CIT if at the time of such transfer is of full age and of sound mind under the law

of the country in which he/she is a permanent resident. The Inheritance and Succession Law of the Republic of Cyprus or of any other country cannot in any way affect any transfer or disposition made to a CIT and the validity of such transfer cannot be challenged.

Firewall protection is provided to the CIT so that the same or any disposition thereto is not invalid or subject to being set aside if it is prohibited by or is not recognized by the laws of any other jurisdiction.

Therefore, a CIT or disposition to a CIT is protected against claims brought for contravention of any foreign rule of law.

Any CIT or any transfer of assets made to a CIT shall not be void or voidable unless and to the extent that it is proven to the satisfaction of the Court that the CIT was set up with the intent to defraud persons who were the settlor's creditors at the time the property was transferred to the Trust. The burden of proof to establish intent to defraud lies with any creditors seeking to annul the CIT and such action must be initiated within two years following any transfer or disposition of assets to the CIT.

In the absence of any express provision to the contrary in the instrument creating a CIT, such a trust shall be deemed to be irrevocable by the settlor and his/her legal representatives, despite the fact that it is voluntary.

## **Powers of the Trustee**

The powers of the Trustees vary depending on the type of trust, which the settlor wishes to constitute.



Therefore, a CIT may be a fixed or a discretionary trust. The criterion of such distinction is whether the powers of the Trustee – in regards to the distribution of the income and capital of the trust property for the benefit of the beneficiaries - are left to the discretion of the trustees or they are set out expressly in the instrument creating the CIT.

Subject to the provisions of the instrument creating the CIT, the trustee will be allowed at any time to invest the whole or any part of the trust funds in any kind of investment wherever the investment is situated and whether or not the funds have already been invested.

Any investment made by the Trustee may be varied or may retain its original state as long as the trustee exercises diligence and prudence that a reasonable person would be expected to exercise in making such an investment.

### Role of Protector/Enforcer

A Protector for the CIT may be appointed who, among other powers, may advise the Trustee and curtail his powers. By appointing the Protector, the Settlor sets barriers to the power and authority of the Trustees in the sense that the Settlor, beyond the powers reserved to him/her under the Law (among others, to revoke and amend the terms of the CIT, provide instructions for the disposition/assignment of property etc.), controls and supervises the Trustee in exercising the powers under the instrument creating the CIT.

An Enforcer may also be appointed, whose role is the supervision of the application of trust provisions and securing its implementation.

Such roles may be undertaken by the Settlor whereas the same is allowed to retain or be granted powers, rights and interests in the CIT.

The Trustee and any other person concerned are required to perform duty of strict confidentiality.

### Applicable Law

The applicable law of CIT may be changed to or from the Law of the Republic of Cyprus provided that: (i) in case of a change from Cyprus Law to another law, the new applicable law recognizes the validity of the trust and the respective interest of the beneficiaries and (ii) in the case of a change from another law to Cyprus Law, the change of the governing law is recognized by the law applied to the CIT before the change to that of Cyprus.

The Settlor is given the right to choose the governing law of the CIT and this choice is conclusive unless provided otherwise in the instrument creating the CIT.

Cyprus law being entrenched as the governing law (if expressly chosen in the trust document or implied from the terms of the trust document as the choice of law) overrides any other existing circumstances and is valid and conclusive.

### Power to Bring Applications

The power to bring applications with respect to any matter in relation to the CIT is available to various classes of persons – the Trustee, Protector and Beneficiary and upon permission of the Court such power may be extended to any person.

The Trustee is permitted to file an application to the court for directions with respect to any matter, thus protecting the Trustee from claims of

breach of the trusts and terms of the instrument creating the CIT.

Apart from the powers of the Court to vary the CIT, it may also be varied by any manner that is provided by the instrument creating the same.

### Duration of the CIT

The duration of the CIT is unlimited and the CIT may exist in perpetuity irrespective of the type of trust created, unless the instrument creating the CIT provides otherwise.

### Stamp Duty

The stamp duty paid on the instrument creating a CIT is EUR 430,00 provided that such payment will be made within a month from the date of execution of such document.

### Possible VAT implications

Depending on the type of activities a CIT is involved in, it might be considered a taxable person for Cyprus VAT purposes and as such liable to register and account for Cyprus VAT.

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