

TRUST WISELY: WHAT TO HAVE IN MIND WHEN ESTABLISHING A CYPRUS INTERNATIONAL TRUST

BY STELLA STRATI
PARTNER - CORPORATE FINANCE,
TAX, PRIVATE CLIENT



**PATRIKIOS PAVLOU
& ASSOCIATES LLC**

ADVOCATES - LEGAL CONSULTANTS





Cyprus is considered as an attractive trust jurisdiction. It enjoys a modern trust regime, based on common law. The Cyprus International Trust Law (CIT Law) was updated in 2012 to modernise the Cyprus International Trusts (CITs) legal framework and to offer incentives to international High Net Worth Individuals to choose Cyprus as their preferred tax jurisdiction.

The reasoning report which accompanied the 2012 CIT Law amendment, stated that it was an objective for Cyprus to have the most attractive industry worldwide for international trusts. At the same time, it was very important for Cyprus not to sponsor or allow in any way inappropriate conduct either by the settlor or by other officers of a trust.

In a nutshell, a CIT is straightforward and easy to set up, while Cyprus provides a number of additional incentives, primarily through its tax regime.

However, while all the above look good on paper, a trust can easily fail if it is considered to be a sham trust. The main reason why trusts may be characterised as sham and thus be open to attack, is the maintenance by the settlor of control over the trust assets and over the trustee or the protector.

So, what are the key considerations when setting up a trust:

1. Trusts should be used for a proper purpose:

A CIT is a useful tool for regulating succession and planning, wealth preservation and asset protection. If used for ulterior purposes, including those of placing assets out of the reach of creditors, it is more than likely that such trust structure will fail.

A hand is shown from the right side, placing a white letter 'T' block into a row of five other white letter blocks. The blocks are arranged horizontally on a dark blue background. The letters on the blocks are T, R, U, S, and T, spelling out the word 'TRUST'. The hand is wearing a light blue sleeve.

2. Setting up a proper trust structure:

Well begun is half done. An appropriate trust structure should be in place from the beginning. The trust instrument, should be properly drafted. Professional trustees, that actually know how to get the job done, should be appointed. Moreover, the protector should be independent of the settlor and the veto powers provided to a protector should be limited only to certain matters. The common practice to appoint the settlor's closest people, family members or employees of the family office as trustees or protectors, is a recipe for disaster.

3. Choose your advisors wisely:

Therefore proper, competent and knowledgeable advisors – lawyers, tax consultants, auditors, wealth managers - should be chosen to ensure that a CIT is properly established, administered and managed.

4. Discretionary nature:

Most importantly, a trust should always maintain its discretionary nature. The trustee's decision-making power should be unfettered and any decisions taken should be to the benefit of the trust property. Letters of wishes given by settlors are no more than mere guidance and should be treated as such by a trustee. The beneficiaries to a discretionary trust, have no fixed right to the capital or income thereof, but only the right to be considered at a potential distribution by the trustee of the trust capital or income. In any case, the trustee should not be directed on how to administer a trust.

The solution is simple: Trust wisely the appropriate and competent professional for a proper and successful settlement and administration of a trust.



**PATRIKIOS PAVLOU
& ASSOCIATES LLC**

ADVOCATES - LEGAL CONSULTANTS

**Patrician Chambers
332 Agiou Andreou str.,3035 Limassol, Cyprus**

P.O Box 54543, 3725 Limassol, Cyprus

**T +357 25871599 | F +357 25344548
info@pavlaw.com**

www.pavlaw.com

Follow Us: 