

Cyprus International Trusts

In 1992 the Cyprus International Trusts Law (the **1992 Law**) was introduced to give Cyprus an up-to-date and competitive international trusts regime, which indeed, proved to be particularly popular with settlors around the world due to its beneficial features of, amongst others, tax mitigation, asset protection and the additional benefit of circumventing applicable forced heirship restrictions. Since implementation of the 1992 Law, a number of events, such as Cyprus joining the European Union in 2004 and the emergence of new opportunities and investment practices, rendered the 1992 Law outdated and various restrictions and limitations contained therein, redundant. While the basic structure provided by the 1992 Law remained sound, the 1992 Law required updating to adapt to the needs of investors, not just today but also in the coming years. As a result, the long awaited reform of the 1992 Law became a reality in 2012, whereby the 1992 Law was greatly amended to provide Cyprus with, what is today, a 'state of the art' international trusts regime. The 1992 Law as amended, ensures that settlors and beneficiaries enjoy the highest possible degree of protection, by reason of the clarity of the new provisions and the removal of ambiguities which afflicted the 1992 Law. The reform has given Cyprus the most modern and favourable trust regime in Europe and restored it to the pole position of trust jurisdictions.

Cyprus' political environment and legal and taxation system

Cyprus is a centre of democracy and stability, where business people from all nations are able to conduct their affairs in a harmonious and friendly environment. The rule of law is a well-entrenched principle which is endorsed by free elections and a European style parliamentary system. The fostering and promotion of good international relations with neighbouring states and countries further abroad is an express policy of Cyprus and every effort is made to ensure that good relations are maintained with all international organisations. Cyprus is a full member of the EU since 1 May 2004, and it maintains extensive diplomatic relations and is a member of the United Nations, the Council of Europe, the Commonwealth, the World Bank, the International Monetary Fund, and the Non-Aligned Group. It is also a signatory to various international conventions and bilateral cooperation agreements. Even if part of the country is under Turkish Occupation since 1974, the risk of political instability is regarded as very low.

The legal system in Cyprus is based on English statute and English common law with administrative laws more closely mirroring the French and Greek models. The Companies Act Cap 113, which forms the basis of Cyprus Company law, mirrors the United Kingdom 1948 Companies Act, without however, any of the subsequent reforms introduced in England after 1960. The sources of Cyprus law are: the Constitution; statutes enacted by the House of Representatives; subsidiary legislation; and the English laws which were adopted upon independence, with the specific proviso that they would apply until they were repealed or amended by subsequent legislation. Judicial precedents also play a significant role in Cyprus law: courts in Cyprus are bound to follow the decisions of courts of a higher level. Where no Cyprus legislation or precedent can be resorted to, English common law principles apply.

Cyprus operates a residence basis of taxation with resident persons and companies being charged to tax on the income accrued or arising from sources both within and outside Cyprus and non-resident persons and companies on the income accrued or arising from sources in Cyprus only in respect of: income from any trade, business, profession or vocation carried on or exercised as far as attributable to a permanent establishment in

Cyprus; profits or other benefits from any office or employment; any pension as a result from a past employment exercised in Cyprus with the exception of any pension paid out of funds created by the Government or a local authority; and rents from property situated in Cyprus. All Cyprus residents, individuals and companies, are subject to the Special Contribution for the Defense of the Republic Law (the **SCDL**), which attributes Special Defense Contribution (the **SDC**) on certain sources of income, such as dividends, interest income, rental income, and is imposed on income earned from sources within Cyprus and outside Cyprus by Cypriot tax residents. SDC is not applicable to non-Cyprus residents. On the 17 July 2015, a bill was passed amending the SCDL. Under the amended legislation, individuals who are not considered to be domiciled in Cyprus are exempt from payment of SDC on dividends, interest and rents, even if they are considered as tax residents in Cyprus. Any individual who has a domicile of origin in Cyprus may still be considered not to be domiciled in Cyprus for SDC purposes if:

- He had the domicile of origin in Cyprus but has obtained a domicile of choice in another country, provided he was not tax resident in Cyprus for at least 20 years before the tax year in which he becomes tax resident of Cyprus;
- He had not been tax resident of Cyprus for a period of at least 20 years before the law comes into effect;
- He has his domicile of origin in another country other than Cyprus but is considered tax resident of Cyprus. This is subject to the limitation that an individual who during at least 17 out of the last 20 tax years has been a tax resident of Cyprus (applies to both domiciled and non-domiciled) will be considered as domiciled in Cyprus and become liable to SDC as from the 18th year onwards.

Concept and nature of a trust

A trust is an arrangement between the settlor and an independent person who receives no benefit from the trust, the trustee, whereby the settlor transfers property to the trustee, to hold, for an indefinite period as the case may be, for the benefit of the beneficiary. The device of the trust was popular even before the times of the Conquest: it enabled a landowner to evade some of the feudal dues which fell on the person seised of land. But while even from these early days the trust was utilized for reasons of tax mitigation, there are today other, possibly more compelling reasons for creating a trust. Today a trust can be used as a vehicle of prudent international tax planning and business structuring in an effort to alter the devolution of assets on death, to avoid the inconvenience and publicity of probate, to protect assets from actual or potential creditors and to accumulate wealth without the incidence of taxation. It is true, that tax mitigation can be achieved through the establishment of a limited liability company in a low tax or zero tax jurisdiction. But while a corporate structure may achieve some of the tax planning objectives of the owner, it is certainly not as “personalized” or as “tailored” a solution to the owner’s objectives as a trust.

Legal regime governing trusts

The statutes governing the establishment of trusts in Cyprus are the Trustee Law of 1955 Cap 193 and the 1992 Law as subsequently amended by 20(I)/2012 (the **2012 Amendments**) and 98(I)/2013 laws (the 1992 Law, together with the 20(I)/2012 and 98(I)/2013 laws, to be referred to as the **CIT Law**). Common law principles as well as the principles of equity as applied in England are also adhered to pursuant to section 29 of the Courts of Justice Law 14 of 1960. The 2012 Amendments to the 1992 Law modernised and significantly enhanced the asset protection features of Cyprus International Trusts (**CITs**) and permitted the holding by a CIT of

immoveable property based in Cyprus for the first time. The 2012 Amendments will be explored in more depth further along in this chapter.

Key concepts of CITs:

- All matters in relation to a CIT are determined in accordance with Cyprus law and the Cyprus courts have jurisdiction.
- The trustees' powers and protectors' duties are governed exclusively by Cyprus law
- The Settlor shall choose the law that shall govern the CIT and where Cyprus Law is chosen to govern the CIT the provisions of the CIT Law applies without the threat of foreign conflicting legislation. In such case, CITs are fully sheltered and protected from foreign judicial claims and the validity of the CIT is not affected or disputed in any matter by virtue of any provisions of any law in any jurisdiction which does not recognise the notion of trusts or is in conflict with the provisions of International Trusts laws of Cyprus.

Types of trusts

There are a number of different types of trusts which can be created, such as:

Fixed trusts: in this form of trust the beneficiaries acquire a fixed and legally vested interest in the trust property which confers on them the right to sue the trustee if he is in breach of trust. Furthermore, they are able to assign their interest in the trust to a third party. The attendant disadvantage is that the beneficiaries are taxed on their interest.

Discretionary trusts: this type of trust allows the trustee to exercise a large element of discretion with regard to distribution of trust assets, the extent to which various beneficiaries benefit and the manner in which trust property and income is applied. As the beneficiaries do not have a legal right to the trust assets, they will generally not be taxed on them until such time as the trustee has exercised his discretion. Furthermore, an element of flexibility is retained and the confidentiality of the trust is enhanced.

Charitable trusts: comprises of trusts set up for public benefit purposes. A charitable trust may be set up by the submission of an application to and the approval of the Council of Ministers in accordance with the Charities Law, Chapter 41. Alternatively, a charitable trust may be set up under the CIT Law, in relation to which a more detailed reference is made below in the section exploring the 2012 Amendments. The following reporting rules apply to charitable trusts: every deed, will or other instrument creating a charity must be submitted to the office of the Registrar of the Supreme Court which has powers in relation to the charity; the trustees of the charity must submit a report to the Administrative Secretary every five years with the names and addresses of the trustees; the trustees must keep books and enter all the accounts of the trust including all monies received and paid; at the year-end, a number of accounts must be submitted to the Administrative Secretary and be certified by one trustee; the Council of Ministers may, at any time, request the accounts of the charitable trust to be audited.

Formation of a trust

In order to set up a trust, a trust deed is required to be drafted and signed by the settlor and trustee, setting out the conditions under which the property will be held, administered and ultimately transferred by the

trustee. A trust can appoint a protector, a person other than the trustee, to whom powers of any nature shall be granted by the trust deed, in order to protect the rights and interests of the beneficiary by overseeing the activities of the trustee and ensuring that the trustee is acting in the best interest of the beneficiary at all material times.

In order to form a CIT there are certain conditions that need to be met, namely: the settlor, whether a physical or legal person, cannot be a resident of Cyprus in the calendar year preceding the year of the creation of the trust; the beneficiary/ries, whether a physical or legal person, cannot be a resident of Cyprus in the calendar year preceding the year of the creation of the trust; and at least one trustee is, for the duration of the trust, a Cyprus tax resident.

The 1992 Law contained a cap of 100 years for the duration of a CIT, however the 2012 Amendments introduced to the CIT Law removed this cap by providing that henceforth, and subject to the terms of the CIT, there will be no time limit restricting the validity and enforceability of a CIT, and that the rule against perpetuities or remoteness of vesting will not apply to a CIT or to any advancement, appointment, payment or application of property from a CIT.

Uses of a CIT

Asset protection

An asset protection trust is a trust intended to protect, preserve and insulate the assets of the settlor against his creditors or other persons who may have a claim against him. In one sense, every trust created is an asset protection trust because the aim each time is that the assets held in trust are segregated from the settlor's estate, and cannot be absorbed to satisfy the settlor's debts.

Trusts are widely used for the protection of assets from the claims of actual or potential creditors. To a large extent, the asset-protection use of a trust has developed as a response to litigation in the United States because of the large awards of damages handed down by juries in civil law cases. In Cyprus, the CIT Law makes specific provision to asset protection trusts. It provides that notwithstanding the provisions of any bankruptcy or liquidation laws in Cyprus or in any other country, and notwithstanding the fact that the trust is voluntary and without consideration, unless it is proven to the court that the trust was made with intent to defraud persons who, at the time when the payment or transfer of assets was made to the trust, were creditors of the settlor, the trust shall not be void or voidable. The law specifies that the burden of proof of such an intent on the part of the settlor lies with the creditors seeking to annul the transfer made to a CIT. Moreover, such an action must be instituted by the creditors within two years from the date of transfer or disposal of the assets to the trust.

Inheritance laws and the concept of "forced heirship"

A trust provides a confidential and flexible way in which an individual can decide how their assets are to pass on death. Many countries have what we call "forced heirship" laws which govern how assets pass to relatives on death. An individual may want to circumvent these laws and decide for himself the proportions in which his assets will pass, or the special provisions he will make for a needy or disabled relative, or a gift he may wish to pass to a friend or a charitable institution. A trust is a good way of overcoming forced heirship laws thus permitting the settlor to dispose of his assets in the way he chooses in utmost confidentiality. In Cyprus,

provision is made in the CIT Law that the inheritance law of the Republic of Cyprus¹ or of any other country shall in no way affect any transfer or disposition made to a CIT and the validity of such transfer shall not be challenged.

This can be read in conjunction with section 1 of the 1976 Convention on the Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters which has been ratified by Cyprus and which strengthens the position of immunity of CITs from forced heirship claims. Specifically, this section provides that the provisions of the Convention do not apply to decisions relating to the capacity of persons or questions of family law, including personal or financial rights and obligations between parents and children or between spouses and questions of succession.

Read together, the provisions of the CIT Law and the 1976 Convention on the Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters, make a strong rebuttal of any potential forced heirship claim for assets held under CITs.

Tax planning

The CIT Law provides that the income and gains of a CIT derived from sources outside of Cyprus shall be exempted from all kinds of tax in Cyprus and no estate duty shall be chargeable in respect of assets belonging to a CIT. In fact the only charge payable to the Cypriot Inland Revenue in respect of a CIT is a one-off stamp duty payable when the trust is created. The position changes if the beneficiaries take up residence in Cyprus a year after the trust was created, in accordance with the amended CIT Law, or if Cyprus immovable property is involved.

Avoiding dissipation of wealth

Individuals concerned with avoiding the dissipation of their amassed fortune by spendthrift children or grandchildren often resort to the use of a trust to which they transfer a controlling shareholding in a successful family-run company to trustees and restrict the circumstances in which the shares may be sold by the trustees. The wishes of the settlor are often indicated in a non-binding letter of wishes and a further security measure may be imposed on the trustees in the form of a protector whom the trustees must consult before taking any major decision, such as a significant change in the nature of the business, sale of the business etc.

Other benefits of CITs

- **Revocability:** A CIT is deemed to be irrevocable by the settlor unless otherwise provided in the trust deed
- **Wide investments capabilities:** The trustee is able to invest trust funds in any kind of investments, the income is accumulated for the whole perpetuity period with no forced distributions
- **Preservation of wealth:** CITs are one of the most popular wealth management tools
- **Tax benefits:** CITs are treated as tax transparent, hence are not subject to any form of Cyprus taxation provided the beneficiary/ries are not Cyprus tax residents (income tax), and the trust does not own/dispose immovable property situated in Cyprus (capital gains tax). In case the beneficiary/ries are

¹ Will and Succession Law Cap 195

Cyprus tax residents or even non-residents, they shall be subject to income tax in Cyprus for any income earned or deemed to be earned from sources within Cyprus, for example where the trust property includes Cyprus immovable property. The favourable Cyprus tax regime applicable to CITs has transformed them into effective tax planning vehicles, attracting many investors

- **Confidentiality:** Government or other officials are prohibited from disclosing any information or documents in connection with the trust property, trustees, settlor, and/or beneficiaries. Trustees of a CIT are also bound by confidentiality and cannot disclose any information in relation to the trust unless they are ordered by a Cypriot court or are required by law in certain circumstances. Under the amended CIT Law, there is now a requirement for the maintenance of a register of trusts containing limited information on the trust (listed under CIT Registry below). Despite the existence of such register, there is no actual registration of the CITs and this ensures confidentiality. Furthermore, although the trustee, the protector, the enforcer of a trust or any other person included is not entitled to disclose to any person not legally entitled thereto any documents or information which relates to or form part of the accounts of the international trust, the 2012 Amendments to the CIT Law provide that where a request is submitted by a beneficiary to the trustee for the disclosure of the accounts of a CIT or of any documents or information relating to the proceeds and payments made by the trustees, forming part of the said accounts, the trustee shall have the power to disclose such accounts, documents or information to the beneficiary, only if in his opinion such disclosure is necessary and secures the bona fide interests of the trust
- **Addition of Assets:** Assets can be added to the trust at any time, and the trust assets are separated from the settlor's personally-owned assets
- **Reservation of powers:** The settlor has the right to reserve many powers including the powers, amongst others, to revoke or amend the trust, to instruct the trustee, to appoint or remove trustees, the protector or the enforcer, to change the law regulating the CIT or the place of its administration
- **Consistency with EU and local anti-money laundering laws and regulations:** This is a great advantage as there is no fear that CITs might be challenged on the grounds of non-alignment with the laws therefore their enforceability is not threatened. Although consistent with these laws, CITs have maintained a legal regime that still offers asset protection and confidentiality to the highest degree.

The 2012 amendments to the CIT Law

On the 9 March 2012 the House of Representatives passed the 2012 Amendments, amending the 1992 Law and modernising the legal framework for the set-up and operation of CITs. Although the 1992 Law was a benchmark piece of legislation for Cyprus, introducing the international trust concept and earning the island the reputation of a professional and respected trust centre, the passage of two decades necessitated the update and clarification of the 1992 Law to keep Cyprus at the forefront of trust jurisdictions. The 2012 Amendments introduced a new and improved state of affairs for settlors who choose Cyprus to settle their assets while enhancing trustee protection and clarifying previously ambiguous provisions of the CIT Law. Importantly, the ban on investments in immovable property in Cyprus was lifted, the settlor residency requirements were amended to provide for settlors (and beneficiaries) who decide to take up residence in Cyprus subsequent to establishing a CIT, and trustees' powers of investment were extended. The key amendments can be summarised as follows:

Residency

The 1992 Law restricted the settlement of CITs to settlors who were non Cyprus resident. This created a state of confusion for persons who met this criterion at the time of setting up the trust but subsequently considered relocation to Cyprus with the result that such persons were dissuaded from becoming residents of Cyprus. The 2012 Amendments provide that a settlor may be a resident of Cyprus provided that at the time of creation of the trust and for a year thereafter, such settlor was a non-Cyprus resident. A time limit to the restriction has therefore been introduced, allowing the free establishment in Cyprus, after the lapse of a year from the creation of the trust. The same rule has been extended to cover beneficiaries, who under the previous regime, were similarly dissuaded from taking up residence in Cyprus. Moreover, to remove ambiguity, the definition of residence has been expressly aligned with the definition contained in the Income Tax laws of 2002.² In accordance with this definition, a resident individual will be a person residing in Cyprus for over 183 days in a given tax year, while a resident company will be a company which is “managed and controlled” in Cyprus.

Settlor reserved powers

A new section 4A permits a settlor to reserve powers, to retain a beneficial interest in the trust property and to act as protector or enforcer of the trust. The list of powers which may be reserved are extensive and include, inter alia, the power to revoke, vary or amend the terms of the CIT, to be appointed as a director of an underlying company wholly or partly owned by the trust, to give binding directions to the trustee in connection with the trust property, to change the governing law of the CIT and to appoint or remove any trustee, enforcer, protector or beneficiary. Furthermore, the settlor may require that the trustees' powers be exercisable only with the previous consent of the settlor or that of any other person specified by the CIT.

The 2012 Amendments were introduced specifically to address the concerns of settlors, particularly from civil law jurisdictions, who are accustomed to exerting full control over their assets and for whom the creation of a trust involves a considerable leap of faith. They follow suit to the amendments of other trust jurisdictions, notably Jersey and the British Virgin Islands. Article 2 of the Hague Trusts Convention,³ provides that “the reservation by the settlor of certain rights and powers is not necessarily inconsistent with the existence of a trust” however it should be pointed out that a settlor of a CIT should be cautious and should not reserve extensive powers to himself. A conservative approach is recommended to ensure asset protection, tax optimisation, and to support a finding for the intention to create a genuine trust in the first place.

Governing law

The amended choice of law clause provides that any disputes arising with relation to a CIT shall be determined in accordance with the applicable laws of Cyprus, excluding therefore the laws of any other jurisdiction. Importantly, the 2012 Amendments clarify that the inheritance laws of any other country will not be enforceable in the Cyprus courts providing that succession laws of other jurisdictions will not invalidate the provisions of a CIT. Note that the choice of law clause, while highly recommended, is not necessarily conclusive on the issue of either succession or jurisdiction particularly in multi-jurisdictional structures where the interests of multi-ethnic parties are concerned and careful advice should be taken in all the pertinent jurisdictions so as to ensure that succession objectives are met.

² The Income Tax Law, No N118(I) of 2002.

³ Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition

Investment powers of trustees

The 2012 Amendments consolidate and extend the powers of investment of the trustees empowering them for the first time to invest in immovable property situated in Cyprus.

Charitable purposes

The definition of charitable purposes has been aligned with the UK public benefit test by clarifying that CITs will be deemed to be charitable where their main objective consists in achieving one or more of the following purposes:

1. The prevention or alleviation of poverty
2. The promotion of education
3. The promotion of religion
4. The promotion of health or salvation of life
5. The promotion of the development of citizens and of the community
6. The promotion of art, culture, heritage or science
7. The promotion of amateur sports
8. The promotion of human rights, dispute settlement or reconciliation or the promotion of religious or national harmony or equality and individuality
9. The promotion of the protection or development of the environment
10. The relief requirements of young or advanced age, ill health, disability, economic hardship or other disadvantage
11. The promotion of welfare and protection of animals
12. Any other reason for the benefit of the general public or which is consistent with paragraphs 1 - 11 above.

In keeping with the 1992 Law, it is not a requirement that beneficiaries of charitable CITs be non-Cyprus resident.

Registry of CITs

The Law Regulating Companies Providing Administrative Services and Related Matters of 2012, as amended from time to time, (**ASP Law**) was also amended in 2012 to provide for the establishment of trust registries. The Cyprus Securities and Exchange Commission (**CySec**), the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus were nominated as the three supervisory bodies and competent authorities for this purpose. Each of these competent authorities is required to maintain a register of trusts established by the respective service provider they regulate containing the following information: name of the trust, name and full address of every trustee, date of creation/termination, the date of establishment of the

trust, the date of any change in the law governing the trust to or from Cyprus law. The identity of settlor and beneficiaries is not disclosed in the registry. A Cyprus resident trustee of a trust governed by Cyprus law must notify its respective competent authority of the above stipulated information within 15 days from the creation of the trust or the adoption of Cyprus law as the law governing the trust. Subsequent changes in any relevant information, including termination of the trust or a change in the governing law from Cyprus law to another law must also be notified within 15 days. The information on the trust post termination or migration will be kept for five years.

The trust registers maintained by each competent authority are only available for inspection by the competent authorities and are not available to the public. The Competent Authorities may exchange information with each other for the purpose of carrying out their duties under the ASP Law and the Law on the Prevention and Suppression of Money Laundering and Terrorist Financing Law.

Furthermore, under the ASP Law there is a requirement by any person providing services of management and administration of a trust to maintain accurate and updated information on the following:

- Trustees;
- Settlers;
- Beneficiaries or information on the class of beneficiaries including the beneficiaries to whom any distributions have been made pursuant to the trust;
- Protector, if applicable;
- Investment advisor, accountant, tax consultant, if applicable;
- Activities of the trust;
- Any other person who exercises effective control over the trust,

and to make this information available for disclosure to and inspection by the relevant competent authority at all times.

Regulation of trustee services

Anti-money laundering purposes

The Central Bank of Cyprus passed a law, the Prevention and Suppression of Legalising Proceeds from Illicit Actions Law of 2007⁴ (the **Money Laundering Law**) the purpose of which is to regulate the activities of professional trustee companies and company service providers. The initiative of the Central Bank is prompted by Directive 2005/60/EC of the European Parliament and of the Council, otherwise known as the Third Money Laundering Directive, on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing. The Directive consolidates and revises the previous European Union money laundering directives and incorporates the June 2003 revisions made by the Financial Action Task Force (**FATF**) to its Forty Recommendations on Combating Money Laundering.

⁴ Law 188(I) 2007).

Specifically, Article 36 of the Directive provides that “Member States shall provide that currency exchange officers and trust and company service providers shall be licensed or registered” and further provides that “Member States shall require competent authorities to refuse licensing or registration... if they are not satisfied that the persons who effectively direct or will direct the business of such entities or the beneficial owners of such entities are fit and proper persons”. The criteria for determining whether or not a person is fit and proper were left to be established in conformity with national laws with an indication that as a minimum, the criteria should reflect the need to protect entities from being misused by their managers or beneficial owners for criminal purposes.

Regulation of fiduciaries in Cyprus

Cyprus subjects trustee and corporate management services to rigorous standards of regulation for the benefit of settlors, beneficiaries, clients and investors. The ASP Law transposes Directive 2005/60/EC into national law and nominates three supervisory bodies, namely CySec, Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus, for the purposes of the CIT Law.

In accordance with the provisions of the ASP Law, companies that provide administrative services and are not exempted by the ASP Law, should apply and obtain the relevant licence from CySec, in order to continue to provide such services. These services include the management or administration of trusts including, without limitation, the undertaking or provision of trustees wherever these are set up or established, or the management or investment or marketing of the assets of a trust, noting that the role of protector of a trust was subsequently excluded from the scope of the ASP Law on the basis that the protector is a person who the settlor appoints to exercise oversight in a personal capacity and that since the trustee is regulated there is no real need for the protector to be regulated.⁵

Taxation of trusts in Cyprus

Trusts are not taxable in Cyprus, but the beneficiaries are taxable through the trustees. In particular, there is no tax on capital gains in Cyprus (other than gains derived from the disposal of immovable property located in Cyprus) and no succession tax in Cyprus. Local trusts, meaning trusts under which either the settlor or any beneficiary is a Cypriot resident, or CITs taking advantage of the 2012 Amendments whereby a settlor or beneficiary may acquire residence one year after set up of the trust, will be treated as transparent vehicles for income tax purposes. As far as trust income is concerned, the CIT Law provides that the income and gains of an international trust derived from sources outside Cyprus shall be exempt from all kinds of tax in Cyprus and no estate duty shall be chargeable in respect of assets belonging to an international trust. In fact, the only charge payable to the Cypriot Inland Revenue in respect of a CIT is a one-off stamp duty payable when the trust is created (unless a beneficiary takes up residence in Cyprus or immovable property in Cyprus forms part of the trust assets). There is a fixed stamp duty of €430 payable upon the creation of the CIT, and where there is a delay to stamp the trust deed there will be a late payment penalty, the amount of which depends on the length of the delay.

Mutual Assistance Directive

The Mutual Assistance Directive⁶ has been transposed into Cyprus law,⁷ facilitating the exchange of information between the competent tax authorities of Cyprus and other EU Member States. Automatic

⁵ [ASP Amending Law 117 \(I\)/2014](#).

⁶ Council Directive 2011/16/EU

exchange of information started in 2015 for taxable periods from 1 January 2014 for the following categories of income (and ownership in the case of immovable property), if information is available when the income concerns a resident of another EU Member State:

- Income from employment;
- Director's fees;
- Pensions;
- Life insurance products not covered by other EU exchange of information laws;
- Ownership of and income from immovable property.

In June 2013, the automatic exchange of information was extended to include information on the following items provided they are paid, secured or held by a financial institution:

- Dividends;
- Capital gains;
- Any other income generated with respect to the assets held in a financial account;
- Any amount with respect to which the financial institution is the obligor or the debtor, including any redemption payments;
- Account balances.

As mentioned within this chapter, a CIT has the benefit of being a confidential document, with only limited information being required to be included in the trusts registry. The CIT itself, is not registered in any registry. The identity of the trustee(s) is one of the limited pieces of information which is required to be included in the trust registry. Trustees of a CIT are bound by confidentiality and cannot disclose any information in relation to the trust unless they are ordered by a Cypriot court.

FATCA and trusts

The entity classification and reporting status of a Cyprus registered trust will largely depend on the nature of the activities and the type of assets held by the trust. If professional advisors are appointed to manage a portfolio of financial assets such as stocks, bonds and shares, the trust will likely qualify as a financial institution (FI) with equivalent registration and reporting requirements.

Charitable trusts will generally be exempt from registration and reporting. Broadly a trust must register if:

- Fifty per cent or more of its gross income is attributable to trading in money market instruments, portfolio management or the investment and administration of funds on behalf of others (as it will then itself qualify as a FI);

⁷ The Administrative Cooperation in Tax Law 205(I) 2012.

- the trust or its assets are managed by an entity that acts for clients and 50 per cent or more of its gross income is attributable to trading in money market or stock exchange investments; or
- it is a Custodial Institution, such as an employee benefit trust continuing to hold shares for an employee after he/she has become entitled to them.

Conclusion

The CIT Law, following the 2012 Amendments continues to place Cyprus at the forefront of available trust regimes, boasting formidable asset-protection benefits and flexible and workable wealth-holding structures.

Generally, taking into consideration the global financial crisis, the problems in the Eurozone and the dramatic events that took place in Cyprus over the last few years, and even after the significant changes adopted by the Cypriot Government as a consequence of that, Cyprus still ticks all the boxes as an international financial centre and as the most convenient tax jurisdiction in the EU. The recent changes made to the Cypriot trusts and tax legislation confirm that Cyprus is not another “off-shore” haven but a well-tested EU jurisdiction that has managed to overcome all difficulties and retain all of its competitive tax advantages.

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