

Key Facts Trusts

VISTA is trust legislation enacted by the British Virgin Islands to provide a solution for individuals and families that seek the benefits a trust offers but who do not wish to transfer to trustees day-to-day management of companies owned by the trust.

1. VISTA relieves the trustee of responsibility for management of companies in which the trust holds shares and in which a non-trustee is a director.
2. Trustees can agree to restrictions regarding the number of directors they appoint, who will be the directors, how long they will serve and in what circumstances a director can be removed.
3. The sale by the trustees of a VISTA trust of shares in an underlying company requires the approval of the directors of that company.
4. A trust may specify a future date or event on which the provisions of VISTA will apply or disapply.
5. Generally, trustees are required to maximize the value of the assets held by the trust for the benefit of the beneficiaries, which tends to result in a more conservative approach to investment strategy. However, with a VISTA trust, the director of the underlying company can engage in more speculative and riskier investments.
6. Trustees retain ultimate fiduciary responsibility for the distribution of assets to beneficiaries, preparing the trust's financial accounts and ensuring that a settlor's estate or family planning wishes are carried out.
7. Trustees have authority to intervene in the running of the underlying company when required to do so by the trust deed and section 15 of the legislation can be disapplied so that the trust deed can include specific trustee fiduciary duties and duties of care in relation to trust assets.
8. One of the trustees of a VISTA trust must be a "designated trustee" which is either a BVI licensed trust company or a BVI private trust company.
9. VISTA applies to shares ("designated shares") in a BVI company and the BVI company in turn can hold shares in non-BVI companies. The VISTA provisions apply directly to the designated shares, but their effect filters down to any foreign subsidiary owned by the BVI holding company and would therefore reflect the same regime of non-intervention by the trustee.

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