

Key Facts Trusts

The principal legislation regulating trusts in Malta is the Trust & Trustees Act, 2004 (“the Act”).

Some salient considerations in respect of Malta trusts are set out below:

- Neither the Settlor, nor the beneficiaries under a Maltese trust need to be residents of Malta.
- Malta trusts do not need to be registered.
- Having ratified the Hague convention, Malta recognises trusts set up under foreign laws.
- The Act provides the possibility of a Protector being appointed to monitor the actions of the trustee.
- Maltese rules on forced heirship only apply to the extent that the settlor is domiciled in Malta at the time of his/her demise.
- A Maltese trust may continue until the 100th anniversary of its creation, unless it is terminated earlier. This does not apply to a trust created for a charitable purpose, to a unit trust or to a retirement scheme.

Regulation of Trustees

In addition to anti-money laundering legislation, the Act requires all trustees to be authorised to provide trustee and fiduciary functions. Furthermore:

- All the trustee’s principal persons must be fit and proper.

- Trustees are required to comply with a Code of Conduct issued by the Malta Financial Services Authority (“the Authority”).
- Monitoring of trustees takes place through regular on-site visits by the Authority.

The Taxation of a Malta Trust

- Subject to the income attributable to a Trust consisting of income arising outside Malta or of interests/royalties or of specific types of capital gains, and provided that all the beneficiaries are non-resident, a Trust can be treated as a transparent vehicle for Malta income tax purposes under ‘look-through’ provisions of Malta’s tax legislation.
- Accordingly no tax on income or chargeable capital gains earned by the Trust is deemed to arise at the Trust level and the income/gains is treated as income derived directly by the beneficiaries. No tax leakage therefore arises in Malta.
- A Trust may alternatively elect to be treated as a corporate in which case provisions applicable to the taxation of companies apply.

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