

Key Facts Trusts

The Isle of Man is a leading offshore jurisdiction for trusts. It offers a well-regulated, highly professional financial services industry, supported by a mature legislative framework, in a politically stable environment. The Isle of Man is a dependency of the British Crown, but is not part of the United Kingdom or the European Union.

Isle of Man trust law is both well-established and modern. It has generally followed English trust law, having its roots in English common law principles, however legislative developments have been enacted that provide the protections and flexibility expected from a modern offshore jurisdiction.

Isle of Man trusts offer suitable solutions for (amongst other matters):

- Personal and family wealth planning
- Tax planning
- Asset protection
- Orphan ownership structures (e.g., for private trust company structuring or securitisations)
- Employee benefit schemes

All trusts require specific advice and tailoring to the needs of each individual client. The Isle of Man, with its available professional expertise, and well-established legal and regulatory regimes, provides an excellent jurisdiction for the establishment of trusts.

Taxation

The Isle of Man tax regime does not impose inheritance taxes, gift taxes or capital gains taxes. Income taxes are not charged to either the trustees or the beneficiaries of an Isle of Man trust managed

within the Isle of Man, provided that the beneficiaries are resident outside the Isle of Man, and trust income arises from sources outside the Isle of Man (although there are specific exemptions for certain Isle of Man-source income, e.g., bank interest).

General Information

The Trustee Act 1961 (as amended) forms the basis of Isle of Man trust legislation. Characteristics of Isle of Man trusts include that:

- They do not need to be registered (unless they hold Isle of Man real estate or are charitable)
- There is no restriction on the accumulation of income
- Trustees are accountable to beneficiaries, however there are no specific statutory accounting or auditing requirements
- Protector(s) may be appointed in order to provide an additional layer of oversight, and to provide comfort to the settlor and/or beneficiaries
- Isle of Man trusts can be of unlimited duration in relation to trust assets settled after June 2015, or trust assets (whenever settled) where the governing law of the trust is changed to Isle of Man law after June 2015

The Trusts Act 1995 enshrined principles designed to protect Isle of Man trusts from foreign legal

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claims (e.g., enforcement of forced heirship rights). A person seeking to bring a claim must do so in the Isle of Man courts, which will decide the matter on the basis of Isle of Man law alone. A foreign court judgement will not be enforced to the extent that that is inconsistent with Isle of Man law, or to the extent that the Isle of Man Court so orders for the protection of the interests of beneficiaries or in the interests of proper administration of the trust. However, it should be noted that where trust assets are situated in another jurisdiction, such protections may be of limited efficacy.

Discretionary Trusts

Discretionary trusts offer flexibility and versatility in their ability to be tailored to meet specific client requirements. A trustee has wide discretion to manage the trust assets and to distribute the income and capital as it sees fit. A settlor may provide guidance as to how he/she would like the trustee to exercise its discretion, typically in the form of a letter of wishes, without compromising the absolute legal discretion of the trustee.

Alternatively, a Life Interest Trust may stipulate that certain beneficiaries have the right to receive specified income.

Purpose Trusts

The Purpose Trust Act 1996 makes provision for the creation of valid trusts for specific non-charitable purposes (for a period not exceeding 80 years) provided that:

- The purpose is certain, reasonable and possible; and not unlawful or contrary to public policy or immoral
- There is an enforcer (who is independent of the trustees)
- There must be at least two trustees (one of which is a 'designated person', appropriately regulated and resident in the Isle of Man)

Unlike other trusts, it is not necessary for the particular persons or classes of persons able to benefit to be immediately ascertainable. Purpose trusts may be used as vehicles to pursue philanthropic or commercial (i.e., non-charitable) purposes.

Purpose Trusts are also suitable vehicles for asset holding or undertaking transactions, where an 'orphan' ownership structure would be advantageous. For example:

- For financing transactions
- For securitisations
- In structuring the ownership of private trust companies

The role of the enforcer is to make sure that the trustees act in such a way as to faithfully pursue the specified purpose of the trust.

Other

Other specific types of trust and trust structuring arrangements may also be accommodated by licensed and regulated Isle of Man trust service providers, such as:

- Employee Benefit Trusts
- Private Trust Companies
- Charitable Trusts
- Protective Trusts
- Accumulation and Maintenance Trusts

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