

Private Trust Companies

A PRIVATE TRUST COMPANY (PTC) IS A LIMITED COMPANY AUTHORISED TO ACT AS TRUSTEE OF ONE OR MORE FAMILY TRUSTS.

INTRODUCTION

A Private Trust Company (PTC) is not, however, permitted to act as a trustee of a non family trust or offer its services to the general public. A PTC can be considered as an alternative to using a professional trust company as the appointed trustee although it would still be very normal for a professional trustee, such as Louvre Trustees Limited, to be employed as administrator of the underlying trust(s). The professional trust company is often employed to provide directors to act alongside the client's own directors on the PTC.

ATTRACTIVE OF A PTC

One of the main attractions of a PTC is the ability of the client to be much more closely involved in the operation of the trust by sitting on the board of directors of the PTC, the client may also invite other family members (who may at some point become principal beneficiaries) or trusted advisors to the board. If, in the event of any problems arising with the administration of the underlying structure, the client need only seek to change the administrator of the PTC without changing the actual trustee itself (which can be a protracted experience for both parties). Most importantly, the client's chosen advisors can remain on the board of the PTC whilst a new administrator is sought. A PTC may also provide greater comfort for the settlor that his or her objectives in creating the trust will be met.

Often, a PTC will give more comfort to a client who is not from a Civil Law jurisdiction where the concept of legal and equitable ownership is unfamiliar.

Another benefit of establishing a PTC to act as trustee of a family trust is that it is possible to choose the directors of the PTC, these are the people who will make decisions about how the PTC will exercise its discretionary powers and how it will manage the trust assets. As mentioned above, whilst the settlor may be one of the directors, consideration will need to be given as to whether or not this is desirable, especially if it may adversely affect the fiscal position of the trust; likewise, whilst other beneficiaries and family members may also be appointed to the board of directors, advice should be sought as to whether or not this will affect the tax position of the PTC or cause the trust itself to suffer adverse tax consequences.

Whilst a PTC can offer significant benefits it is necessary to bear in mind that it can involve additional costs and if it is not seen to be acting in a truly independent manner it may increase the possibility of the trust being challenged.

OWNERSHIP

There are a number of ways in which a PTC may be owned, for example, the settlor may own it directly; or another member of the family may own it. A common option is to have the shares of the PTC owned by the trustees of a purpose trust, the sole purpose of which is to own the shares of the PTC for the benefit of the settlor and family members and or other beneficiaries. It is likely that the PTC will have little or no intrinsic value as its sole purpose is to act as trustee of the family trust and so its value is usually no more than the amount of its paid-up share capital; which may be minimal.

ESTABLISHMENT

PTCs can be established in a number of jurisdictions the most appropriate location will depend on various factors ranging from licensing requirements to whether it is necessary to appoint a local director.

FOR MORE INFORMATION PLEASE CONTACT:

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