

The Panama Private Interest Foundations.

OVERVIEW	PAGE 1
ADVANTAGES	PAGE 2
MAIN USES	PAGE 3
FOUNDATION CHARTER & REGULATIONS	PAGE 3, 4
INCORPORATION COSTS & REQUIREMENTS	PAGE 5

Panama Private Interest Foundations | Overview

For those readers who are not familiar with the concept of a foundation, it consists in the endowment of a patrimony for a specific purpose (object) determined in the document whereby the foundation is created and internally organized known as the Foundation Charter.

An appointed body known as the Foundation Council is entrusted to pursuit the objects of the Foundation.

The person's who creates the endowment is known as the Founder and the persons who benefit from the endowment (traditionally the founder and/or members of his family) are known as the Beneficiaries.

Once the Foundation Charter is registered in the Public Registry, the property endowed or to be endowed becomes an estate separate and apart from that of the founder by acquiring a juridical personality of its own, thus becoming a private foundation.

The information about names and rights of the beneficiaries of the foundation is usually provided to the Foundation Council by means of a private and confidential document (that is to say a document which does not need to be registered in the Public Registry) known as The Regulations.

Contrary to a traditional corporation, a Private Foundation does not have shares, it does not recognize shareholders and the founder does not acquire any such rights in relation to the foundation's property. The Law does recognize, however, the beneficiaries or the persons in whose benefit the foundation is created, which can include the founder.

The possible uses of a private foundation are so broad that we can safely ascertain that practically all of the objectives which can be achieved by the widely used "trusts" can also be accomplished by properly structuring a private foundation.

Private foundations are mostly utilized as the ultimate holder of a given patrimony administered by professionals for the benefit of the founder and/or other appointed beneficiaries, allowing the founder, at the same time, to plan in advance (in the Regulations) for the transfer of the benefit or the orderly succession of such patrimony in case of his sudden demise.

Panama Private Interest Foundations | Advantages

- The anonymity and privacy of the beneficiaries is kept, since their names are not registered in any Public Office.
- No requirements to file annual returns or financial statements; full exemption from taxation of any business activity transacted out of the Republic of Panama.
- The Panamanian Foundation offers flexibility, to transfer or to administrate a patrimony on behalf of the same founder or third parties, families, children or inheritors.
- Provide a fiduciary structure for the orderly transfer and disposition of the assets to the beneficiaries upon the death of the Founder, keeping control of assets during lifetime.
- Inheritance laws that apply in the domicile of the founder or the beneficiaries shall not be effective against the foundation's assets nor may these laws affect the validity or performance of the foundation's objectives.
- A Private Interest Foundation duly organized in other countries, change is resident / domicile to Panama and adopt Law 25 of 1995, as the legal provision applicable to the same, through the registration of its foundational instrument.
- Its cost is very competitive with respect to those of other foreign jurisdictions.
- The Panamanian legislation regulating Foundations, confer upon the Foundation excellent mechanisms for the protection of the same against third party claims.
- The founder may act through a corporation if he desires so.
- The Foundation allows the investor to perform transactions and investments and to distribute the proceeds generated from the same, with a grade of impenetrability superior to any other type of investment instrument.
- Brief Incorporation time frame, approximately five business days.
- Panama, like many other international financial centers, only taxes income produced or generated by economic activities carried out within the country, and even inside the country there are certain incomes which are tax free. Consequently, someone who utilizes a Panamanian Private Foundation outside of Panama shall not be subject to taxes within the country of Panama, with the exception of the annual franchise tax mentioned in the preceding paragraph.

Panama Private Interest Foundations | Main Uses

It is important to explain that a Panamanian Private foundation, according to the law, cannot be simply profit oriented or be used to carry on a particular business.

Although the Private Foundations shall be used more as a holding company, it can sporadically perform certain acts of commerce when such acts are convenient or advantageous to the Foundation and only if the proceeds of such acts are dedicated exclusively to the non-commercial purpose or objectives of the Foundation.

Therefore, the purpose of a Private Foundation shall be along the following lines: To contribute to the costs of upbringing, education, aid, as well as general maintenance or other similar aims of one or more members of one or several families as established in the Regulations.

In addition to the members of one or several families, the foundation may benefit other natural or juridical persons including institutions of any kind and it may take the necessary provisions for the orderly disposition or succession of its patrimony.

To achieve its object the foundation is authorized to preserve, administer, and invest in an appropriate manner the foundation's assets, being these assets of any kind, particularly of real estate and participations in other entities, and to conclude all businesses and legal transactions serving the pursuit and the realization of such objects.

Foundation Charter & Regulations

Two main documents constitute a foundation: The Foundation Charter and its Regulations.

1. The Foundation Charter

Panamanian Law requires that a Foundation Charter be registered at the Public Registry in order for the Foundation to acquire juridical personality. Like any other juridical person who will have rights and obligations and who will acquire and own assets of all kinds, the Law requires that certain basic information be provided in the Charter in order to validly constitute a Foundation.

The Foundation Charter must include the following information:

- The name of the foundation in any language with characters of the Latin alphabet, and which to avoid confusion, shall not be identical or similar to that of any other foundation previously registered in the Republic of Panama. The name shall include the word "foundation" to distinguish it from a natural person or from a different kind of juridical person.
- The initial capital of the foundation, expressed in any currency of legal tender, and which shall in no case be less than an amount equivalent to US\$10,000.00.
- A complete and clear designation of the name and address of member or members of the Foundation Council, to which the founder may belong.
- The domicile of the foundation.
- The name and domicile of the Resident Agent of the foundation in the Republic of Panama, who must be an attorney or Law firm. The Resident Agent must countersign the Foundation Charter prior to its registration in the Public Registry.
- The purposes or objects of the foundation.

- The manner of appointing the beneficiaries of the foundation, which may include the founder.
- The reservation of the right to modify the Foundation Charter when deemed convenient.
- The purposes or objects of the foundation.
- The manner of appointing the beneficiaries of the foundation, which may include the founder.
- The reservation of the right to modify the Foundation Charter when deemed convenient.
- The duration of the foundation.
- The destination to be given to the estate of the foundation and the manner of liquidating such estate in the event of dissolution.
- Any other lawful clauses which the founder may consider convenient. Unlike some Liechtenstein foundations and Common Law Trusts, the fact that the foundation charter needs to be registered offers the Panamanian vehicle more judicial safeguards: it grants the Public Registry the elements to issue a "Certificate of Public Registry" thus ensuring the real existence of the foundation. This document may be legalized by Apostille, and it will prove to be a great tool for the prompt opening of bank accounts in the name of the foundation.

2. Regulations / By-Laws

Any information not required by Law to be included in the Foundation Charter and which the founder would rather keep confidential can always be written into "the Regulations". As in Liechtenstein, the Regulations are a private document and, as such, do not need to be registered at the Public Registry or anywhere else. Traditionally, then, any information containing the names of the beneficiaries and their rights over the foundation property are written into the "Regulations". Consequently, the beneficiaries' identity and all successory dispositions need not be revealed to any governmental agency, not even to the attorneys organizing the foundation.

The Law places practically no limits upon the structuring of the beneficial interests of a foundation. One of the more common scenarios is for the founder to designate himself/herself as beneficiary for life and provide successive beneficiaries upon his or her death.

The Law further enhances the confidentiality of this instrument by creating in article 35 severe sanctions (fines of up to US\$50,000.00 and imprisonment of up to six months) for breach of the duty to maintain the information confidential. This obligation applies to members of the Foundation Council and of the supervisory bodies, if any, as well as to public or private employees having any knowledge of the activities, transactions or operations of the foundation.

Furthermore, the Regulations may be kept outside the country in the hands of the founder, his fiduciary agent, the protector or any other person or institution vested with the confidence of the founder. For all of the above-mentioned reasons, and some additional ones which will be explained in other parts of this Newsletter, the private foundation has been called the perfect living will. There is no need to open public proceedings if the founder dies, and his wishes regarding the use, transference, and final destination of his assets can be carried out privately by the Foundation Council.

Panama Private Interest Foundations | Incorporation Costs

Our total cost for incorporating a Private Interest Foundation in Panama, including its respective translations into English language and authenticated is US\$1050.

This cost includes expenses such as:

- Notaries fees
- Capital Registration Tax on the basis of an initial Foundation capital of US\$10,000.
- Resident Agent fee for the first year.
- Legal fees.
- Power of attorney included in the Foundation Charter. (if requested)
- Translation into English of the Foundation Charter.
- Certificate of good standing of the corporation translated into English.
- Annual franchise tax payment of US\$250.00 in concept for the first year of incorporation.
- A sample of the Regulations for the Foundation.
- Official documents authenticated by Apostille and with official English translations.
- Courier expenses.

Foundation Council

The Foundation must have a Foundation council which is similar to the board of directors of a company, regarding this point you have three alternatives:

- To appoint you own Foundation council (must be formed by three natural persons)
- To appoint a Corporation as the Foundation Council.
- To use our nominee services in order to appoint a nominee Foundation Council.

Brief Information about a Nominee Foundation Council:

In order to keep anonymity and privacy we can appoint the 3 Foundation Council Members required by Law.

General Power of Attorney:

In case you use a Nominee Foundation Council, you will gain control over the Foundation with a General Power of attorney issued in a Private separate document.

› **Foundation costs appointing your own foundation council US\$1050.**

› **Foundation costs including our firm nominee foundation council and general POA US\$1450.**

In order for us to proceed with the incorporation, you must provide the following:

(Can be sent via email)

- Three possible names of the Foundation in order of preference. Must have the word Foundation.
- Name of the Foundation council members. If appointed by the client.
- Name of the person in favor of the general power of attorney. If required.
- Your courier address and phone number where Foundation documents shall be sent.
- To transfer the cost for the incorporation of the Foundation to our Bank Account. The payment can be made also with Visa or MasterCard.

Procedure Time Frame:

Once we receive the confirmation that the funds were transferred to our account, we will send you the Foundation documents by courier in approximately five business days.

Anniversary: Second Year Payments.

› **Annual costs appointing your own foundation council US\$500.00**

› **annual costs including our firm nominee foundation council services US\$800.00**