

The Panama Trust

General Information about the Panama Law on Trusts

A trust is basically a special type of contract recognized by law. Trusts in Panama are regulated by Law 1 of January 5, 1984 and Decree N. 5 of 1997.

A contract between an individual (the "settlor") who transfers certain assets owned by him or her (the "trust fund") to one or more persons (the "trustees") with specific instructions, legally binding for the trustees, that the trustees should hold the trust fund upon prescribed terms (the "beneficiaries").

The document, in which the settlor's instructions are contained, is called the "trust instrument", which governs all future dealings by the trustees of the trust fund. Trusts are either revocable or irrevocable.

The trust instrument is usually signed and sealed by both the settlor and the trustees. If the settlor does not wish to be named personally in the trust instrument, the trust can be formed by a "declaration of trust" which is signed and executed under seal by the trustees alone.

The choice of trustees is very important as the trustees are under a strict legal obligation to carry out the precise terms of the trust. Trustees can either be individuals or companies or even a combination of the two.

The trust fund can consist of a variety of assets including accounts, cash, company stocks, businesses, investments, property, homes, insurance policies or interests in other trusts.

The most common form of trust established in offshore jurisdictions is the "discretionary trust". This is a very flexible trust and gives a high level of confidentiality as usually there is no requirement to file the trust instrument with any government agency so that privacy of the settlor, the trust's activities and the identity of the beneficiaries is fully protected.

Typically, the trust is created in a country which imposes no tax of any kind on the settlor, the beneficiaries or in the income or capital gains earned by the trust. Further, more jurisdictions selected for forming offshore trusts do not have any requirement for the trustees to file trust accounts with the local tax authority - thus further preserving the confidentiality of the trust's activities.

Depending upon the residence for tax purposes of the settlor and the beneficiaries, it is often possible to make distributions of capital or income from the trust completely free of tax.

Frequently, international business community employs offshore discretionary trusts to hold their various investments. In this matter, many reporting requirements are either eliminated or vested in the trustees.

Specially designed trusts can effectively protect the settlor's assets from attack by erstwhile creditors, thereby preserving the settlor's assets for the enjoyment of the settlor and his or her selected beneficiaries.