

# Introduction of Swiss Trusts: Why Switzerland is Well Poised For Families Establishing Trusts and Private Trust Companies For Asset Protection

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By **Christine Breitler**, 12th September 2024

Switzerland has long been known for its expertise in international wealth management sector, its commitment to professional confidentiality and commercial competence, and its economic, political and legal stability, providing a solid foundation for families wishing to establish a Trust and a Family Office.

Widely used in Anglo-Saxon countries, a trust is flexible and, in the right circumstances, can be an effective asset protection vehicle. It provides anonymity for families, and confidentiality regarding the assets and/or companies held within it. Trusts can be a useful aid in terms of succession planning and can assist with long term inheritance matters.

A Private Trust Company (PTC) is a corporate entity authorised to act as trustee. The client and his/her family can actively participate in the management of the assets and decision-making processes, as well as sitting on the board of the PTC.

## **The Use of Trusts in Switzerland**

Switzerland does not have specific Trust Law, but recognised Trusts with the ratification of The Hague Convention on the Law Applicable to Trusts (1985), on 1 July 2007. Whilst there is no domestic law governing Trusts in Switzerland, Trusts from other jurisdictions, and their specific rules, are recognised and can be administered in Switzerland.

In Switzerland, the Settlor (the individual who settles assets into the trust for the benefit of the Beneficiaries) can choose the law of any specified Trust jurisdiction to govern the Trust. For example, a Guernsey Trust can be established with a Swiss Trustee. The Trustee holds and manages the assets in the Trust on behalf of the Beneficiaries.

### **Why Consider the Use of a Swiss Trust and/or a Swiss Trustee?**

#### **Taxation of Trusts in Switzerland**

The Hague Convention (Article. 19) stipulates that the Convention does not prejudice the powers of sovereign states in fiscal matters. Consequently, Switzerland has maintained its sovereignty in relation to the tax treatment of trusts.

The tax advantages available in using a trust with a Swiss Trustee essentially depend on the tax residence of the Settlor and the Beneficiaries.

In terms of Swiss Law:

- A Swiss resident Trustee is not liable to Swiss income tax or capital gains tax on the assets held under management in a trust.
  
- Settlers and Beneficiaries are exempt from Swiss taxation as long as they are not considered to be Swiss residents.

#### **Protection**

Under Common Law the Trustee is the owner of the assets and is required to administer the trust assets separately from his own assets. In the event of death or bankruptcy of the Trustee, the assets are not considered as belonging to the Trustee but are submitted to the trust's protection and held separately for the Beneficiaries. The trust's assets are therefore segregated from the Trustee's estate.

#### **Confidentiality in Switzerland**

Switzerland is well known for its commitment to banking services, professional confidentiality and commercial competence.

The Swiss Association of Trust Companies (SATC) enforces strict confidentiality rules, stating that: “Any and all information related to a trusteeship and acquired by a Member must be kept strictly confidential by the Member, its directors, officers and other employees.” Dixcart Trustees (Switzerland) SA is a member of The Swiss Association of Trust Companies (SATC) ,and registered with the Organisme de Surveillance des Instituts Financiers (OSIF).

A breach of confidentiality, whether professional or commercial, would only be permitted by law in cases involving criminal liability.

### **Regulation of Swiss Professional Trustees**

Swiss Trustees are subject to prudential supervision and must be licensed by FINMA (Swiss Financial Market Supervisory Authority) and comply with various requirements before commencing commercial activities.

### **Dixcart Gains Regulated Trustee Status in Switzerland Under New Law**

Up until 2022, Swiss Trustees were only supervised in relation to compliance with Anti-Money Laundering obligations. Swiss Trustees now must comply with structural, organisational, business-conduct and audit requirements. In addition, Trustees operating in Switzerland must obtain a licence from the Swiss Financial Market Supervisory Authority ([FINMA](#)).

*In February 2024, Dixcart Trustee Switzerland (SA), became a regulated Swiss Trustee, as authorised by FINMA.*

### **Trust Services Provided by Dixcart**

Dixcart has been providing Swiss Trustee services for almost 25 years, and we are delighted and proud to be one of the first Swiss Trustees to be authorised by FINMA.

A trust based on the Trust Law of, for example, Cyprus, England, Guernsey, Isle of Man, or Malta, and with a Swiss Trustee, can offer several tax efficiencies, as well as advantages in terms of wealth preservation and confidentiality. Dixcart can establish and manage such trust structures.

### **Additional Information**

If you would like more information on this subject, please speak to Christine Breitler in the Dixcart office in Geneva: [advice.switzerland@dixcart.com](mailto:advice.switzerland@dixcart.com) or to your usual Dixcart contact.