

Tax Treatment of Trusts in Switzerland and Why Use a Swiss Trustee

Trusts in Switzerland can offer a number of tax efficiencies, as well as advantages in terms of wealth preservation and confidentiality.

13th December 2021

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 Use a Trust And What is the Role of a Trustee?

A trust is a very flexible instrument and is particularly useful for estate planning, wealth management and asset protection.

At a basic level, the concept of a trust is relatively simple: the Settlor places assets in the legal custody of another (Trustee), who holds the assets for the benefit of a third party (Beneficiary). The trust is not a separate legal entity, but more of a legal obligation agreed between two parties: the Settlor and the Trustee.

Trustees owe a fiduciary duty to both the Settlor and the Beneficiaries, as well as to the trust itself. Depending on the jurisdiction under whose laws the trust is constituted, the

trust can either have a pre-determined life span or be indefinite. Trusts are intrinsically very flexible.

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.

Why Use a Swiss Trustee?

In addition to the potential tax advantages detailed above, there are a number of reasons why use of a Swiss Trustee can be advantageous:

- Switzerland has a long established reputation for discreet professional support when managing the affairs of wealthy private individuals.

- Switzerland is located in the centre of Europe, where many affluent individuals are based. Swiss Trustees therefore offer the advantage of being able to provide frequent and high quality support as they can regularly liaise with and, when appropriate, meet with clients and/or other professional advisers.

- Swiss economic, political and legal stability provides a solid base for the provision of high quality support and administration services.

- Switzerland has a number of favourable and well developed banking laws, and has been a popular international private banking centre for many years. It is a jurisdiction with a good reputation and offers a high quality of knowledgeable professionals working within asset management, tax planning and private banking.

The Dixcart Office in Switzerland and Trust Services

The Dixcart office in Switzerland is a member of the Swiss Association of Trust Companies (SATC) and is registered with the Association Romande des Intermediaires Financiers in Switzerland (ARIF).

Confidentiality in Switzerland

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

- SATC provides 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."

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

Summary

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

Dixcart can establish and manage such trust structures.

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

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