

The Continued Relevance of Trusts for Personal Wealth Planning and the Benefits of Increased Regulation in the Finance Sector

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Background

The original trust concept is widely believed to have originated under Common Law in the 12th century when the English knights were leaving for the crusades and needed the ability to confer the authority to act on their behalf in respect of their assets whilst separating the legal ownership of those assets.

The concept can in fact be traced back even earlier to Roman Civil law with the concepts of *fideicommissum* and *fiducia* both of which effectively conferred title to an individual's assets to a third party in return for obligations on the third party as to how those assets were to be applied.

The trust concept in its various forms continued as a means of passing value across the generations until the late 20th century when use of the Common Law form of trust started to branch away from pure estate-planning and the 'trust' became more of a tax-planning tool for (relatively) short-term gains for both corporates as well as individuals.

This particular *modus operandi* was embraced by certain aspects of the legal profession and the newly nascent offshore / international finance centres and the industry blossomed throughout the 70's, 80's and 90's attracting the interest of the various revenue services.

Increasing International Regulation and Exchange of Information

This in turn has led over the past twenty years to the introduction of a plethora of international tax, regulatory and automatic exchange of information (**AEOI**) measures. These cover base erosion and profit shifting (**BEPS**), common reporting standards (**CRS**), foreign account tax compliance act (**FATCA**), and mandatory disclosure rules for tax information exchange agreements and economic substance. With the most recent iteration of associated legislation being the Group of Seven's (**G7**) consideration of a global corporate minimum tax as the latest of these initiatives specifically designed to ensure that multinational businesses are paying tax in the jurisdictions where their economic activity is carried out.

Guernsey – Rising to the Occasion

Throughout the introduction of these new measures Guernsey has managed through early compliance to maintain its position as one of the most well-respected and regulated of the offshore centres successfully navigating the international currents driving these initiatives, positioning itself as one of the first adopters of CRS and FATCA.

Guernsey's willingness to proactively implement the necessary changes, coupled with its world leading financial services industry, means that the provision of fiduciary services from the Island is flourishing.

The use of a trust for financial planning is evolving once again and reverting in the main to its original concept as a means of wealth and estate-planning across generations rather than short term tax planning.

The net result of the above has been that rather than being put out of business by the increasing regulation to which international financial centres are subject, Guernsey has thrived and continues its position as a leading jurisdiction through which international families can structure their affairs.

Guernsey as a Trust Location

The increased regulation to which Guernsey (like other international financial centres) has been subject, is in fact attracting more clients to base their structures through Guernsey. They have greater confidence that their affairs will be professionally managed and that they will not face criticism for structuring through the Island.

An example of this is the increasing number of family offices based in Guernsey proactively seeking out regulation as a means of demonstrating to tax authorities, regulators, and the public, that they have nothing to hide and are fulfilling their role as

good corporate citizens.

Additional Information

For more information on Guernsey and the opportunities presented please contact John Nelson at the Dixcart Guernsey office advice.guernsey@dixcart.com and visit our website www.dixcart.com

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