

The Role of a Swiss Trustee: Exploring How and Why They are Beneficial

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By **Christine Breitler**, 24th April 2024

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Dixcart and Trust Services in Switzerland

In Switzerland, where the Swiss Financial Market Supervisory Authority (FINMA) has elevated the standards for local professional trustees and made their activities subject to licensing, the Dixcart office in has secured authorisation from FINMA to act as a Professional Trustee. Dixcart Switzerland is also a member of the Swiss Association of Trust Companies (SATC) as well as affiliated with "Organisme de Surveillance des Intermédiaires Financiers (OSIF)".

Switzerland and the Use of Trusts

Switzerland does not have a specific Trust Law, but trusts are recognised with the ratification of The Hague Convention on the Law Applicable to Trusts (1985) introduced on 1 July 2007.

Whilst there is no domestic law governing trusts in Switzerland, trusts formed under the laws of other jurisdictions are recognised and can be administered in Switzerland by Swiss trustees.

The Settlor – the individual who transfers 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 trust governed by the laws of Guernsey can be established and administered by a Swiss Trustee, who is responsible for holding and managing the trust's assets to serve the interests of the Beneficiaries.

Why Use a Trust?

A trust is an extremely flexible instrument and is particularly valuable for estate planning, wealth management and asset protection.

Fundamentally, the concept of a trust is straightforward: the Settlor transfers assets into the legal custody of another party – the Trustee – who then holds these assets for the benefit of a third party, the Beneficiary. The trust is not a separate legal entity, but rather a legal obligation agreed between the Settlor and the Trustee.

Trustees are bound by a fiduciary duty to both the Settlor and the Beneficiaries, as well as to the trust itself. This duty compels them to act in the best interests of all parties involved. Depending on the jurisdiction laws governing the trust, it can either have a fixed life span or be indefinite. Trusts are intrinsically very flexible.

Why use a Swiss Trustee?

There are numerous reasons why appointing a Swiss Trustee can be advantageous:

- **Stability:** Swiss economic, political, and legal stability provides a solid base for the provision of local administration services.
- **Banking Expertise:** Switzerland continues to lead the private banking system worldwide, making it a premier choice for international private banking centre. It is a jurisdiction with an outstanding reputation and offers a high quality of knowledgeable professionals specialised in asset management, tax planning and private banking.
- **Discretion:** Switzerland is renowned for its discreet professional support in managing the affairs of private individuals. This makes it a wise choice for those seeking privacy and confidentiality.

- **Strategic Location:** Switzerland is located in the centre of Europe where many affluent individuals are based. Swiss Trustees are ideally positioned to offer frequent and high-quality support, benefitting from proximity to both their clients and a network of top bankers and wealth managers. This close relationship facilitates regular, face-to-face interactions, ensuring tailored and responsive services.

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.

Summary

Trusts based on English, Guernsey, Isle of Man, Maltese Law managed by Swiss Trustees can offer several tax efficiencies as well as advantages in terms of wealth preservation and confidentiality.

Dixcart Switzerland is well-prepared to 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: christine.breitler@dixcart.com.