

Trusts and Foundations: Questions & Answers

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A Changing World

Particularly, in light of the recent Covid-19 pandemic, many individuals are considering how they can best protect their family health and their family wealth, across future generations.

Many have already set up family offices and use Trusts and/or Foundations as wealth preservation vehicles within these.

This Article is intended for those considering taking such steps.

Dixcart has offer 45 year of experience in helping establish Trust and Foundation vehicles and providing Trustee services. We are licensed to offer these services across the six jurisdictions of; Cyprus, Guernsey, Isle of Man, Malta and Switzerland.

What will be most appropriate, depends on your circumstances and we strongly advice that you take professional advice: advice@dixcart.com.

Questions and Answers

What is the History in Relation to each Vehicle?

Trusts have been used in common law countries for many hundreds of years, for a variety of reasons. With the development of international business, international tax and estate planners were quick to realise the benefits of using offshore trusts in mitigating tax liabilities and assisting in the flow of family wealth through the generations.

Historically, clients from civil law countries have been more familiar with the concept of the Foundation. However, now they are becoming increasingly aware of the benefits of Trusts, and it is the same in terms of common law countries and Foundations.

How Can a Trust or Foundation Help Preserve Wealth Across Future Generations?

It is a legal arrangement where the ownership of the 'Settlor's' assets (such as property, shares or cash) is transferred to the 'Trustee' (usually a small group of people or a trust company) to manage and use to benefit the 'Beneficiaries', a third person, or group of people, under the terms of a Trust Deed.

A Foundation creates a separate legal entity with its own legal personality, distinct from the 'Founder(s)', who transfers assets into the Foundation, the 'Council' manage the Foundation and the 'Beneficiaries', benefit from it.

Charitable foundations are the most common and the majority are set up to exist in perpetuity. This means that control over the foundation and its assets can be passed to countless generations of the family.

Are Trusts and Foundations 'Private'?

In most jurisdictions, no requirements currently exist to register a Trust or for any document or information in connection with the Trust to be placed in the public domain, and the arrangement may therefore be kept completely private.

Limited information in relation to Foundations will be publicly available, but there is currently no requirement that the identity of the Founder, Beneficiaries or purposes of a Foundation should be made publicly available.

Trusts and Foundations can, therefore, both be private arrangements under current rules.

What are the Key Differences Between a Trust and a Foundation?

A number of the key differences are outlined below:

- A Trust is not a legal entity; a Foundation is a registered legal entity.
- The ownership of the assets in a trust rests with the Trustee whilst the Foundation owns the property concerned directly.
- A Foundation is more structured than a Trust as it is governed by its Charter and Articles or regulations.
- Potentially, a Foundation provides more certainty than a Trust and it is less likely to be treated as a potential 'sham', particularly in civil law jurisdictions.
- Unlike most Trusts, the Beneficiaries of a Foundation may be denied rights to information and they generally do not have any equitable or other forms of ownership of foundation assets.
- Trusts are intrinsically more flexible than Foundations.
- A Trust can be used for commercial purposes but Foundations, except under limited circumstances, cannot be so used.

What are the main Reasons for having a Trust or a Foundation, in addition to Wealth Preservation?

In addition to the preservation of wealth, selected distribution of assets and favourable tax treatment, Trusts and Foundations are used to achieve the following:

- Circumvention of forced heirship laws

- Asset protection
- Confidentiality
- Continuity on death
- Philanthropy

Dixcart Offices Regulated to Provide Private Client Services:

Dixcart has six offices with extensive expertise in providing Private Client Services, including the provision of Trusts and Foundations:

- **Cyprus:** Dixcart Management (Cyprus) Limited is regulated and holds a full fiduciary licence under the Cyprus Securities and Exchange Commission.

Email: advice.cyprus@dixcart.com.

- **Guernsey:** Dixcart Trust Corporation Limited is regulated and holds a full fiduciary licence under the Guernsey Financial Services Commission. Dixcart Trust Corporation Limited is a member of the Guernsey Association of Trustees.

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- **Isle of Man:** Dixcart Management (IOM) Limited holds a full fiduciary licence and is regulated by the Isle of Man Financial Services Authority. Dixcart Management (IOM) Limited is a member of the Association of Corporate Service Providers.

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- **Malta:** Elise Trustees Limited Dixcart House is regulated and holds a full fiduciary licence under the Malta Financial Services Authority.

Email: advice.malta@dixcart.com.

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Email: advice@switzerland.com.

Summary and Further Information

Trusts and Foundations can be used to achieve many objectives. The choice of jurisdiction for a Trust and/or Foundation is important and is generally governed by the specific circumstances of each family/family office.

If you would like additional information, please speak to your usual Dixcart contact, one of the Dixcart offices above, or email: advice@dixcart.com