

NEVIS TRUST STRUCTURING



Trusts in Nevis - Two Options

Nevis has long been recognised as a jurisdiction with some of the most modern and comprehensive asset protection trust legislation worldwide.

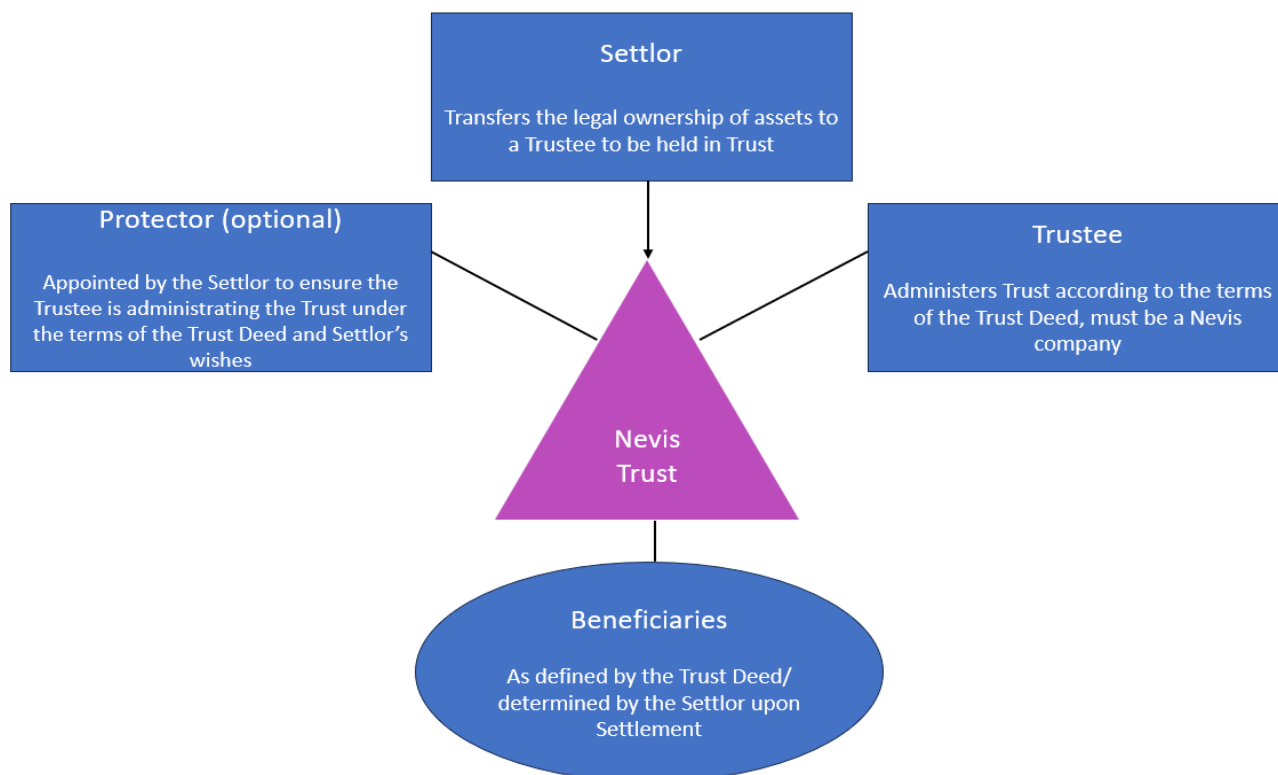
Within Nevis there are two options for the establishment of trusts. These can either be created under the general laws of trusts applicable internationally, which are referred to as Common Law Trusts, or created as Nevis Asset Protection Trusts registered under the Nevis International Exempt Trust Ordinance. The latter benefits from some additional provisions, detailed below, which may be of value in helping achieve the ultimate objectives of the Settlor in creating a Trust.

What is a Trust?

A Trust is a legal arrangement whereby an individual known as a Settlor transfers the legal ownership of assets to the Trustees to be held in a Trust for the benefit of defined Beneficiaries. The details of the arrangement are contained within a Trust Deed, which is the constitutional document of the Trust. Trusts are not incorporated and therefore do not benefit from the features of a legal entity, such as a separate legal personality and limited liability e.g. it cannot make contracts or create charges in its own name. Instead, the legal title of the assets is transferred to the Trustees, who owe specific duties to the Beneficiaries.

Parties

A typical Trust consists of the following parties:



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Registered Nevis Asset Protection - Benefits and Protections

Under the Nevis International Exempt Trust (Amendment) Ordinance, a Trust can be settled and registered in Nevis which affords a multitude of benefits and protections to the Settlor and Beneficiaries of the Trust. Some of these advantages include:

- **Validity** - the Trust is valid and enforceable regardless of whether it is invalid in the Settlor's domicile or jurisdiction of residence
- **Dynasty Trust** – The Trusts can have an unlimited duration
- **Foreign judgements** – Any foreign judgements are not enforceable in Nevis
- **Retained powers** - Certain powers can be retained by the Settlor
- **Confidentiality** - The only information which is required to be registered with the authorities is; the trust name, the registered address and name of the Trustee and a signed declaration by the Trustee. This information is kept confidential
- **Creditor claims** - any potential creditor must place a bond of ECD270,000 / USD100,000 before bringing any action or proceeding against trust property in a Nevis Trust, and the burden of proof is placed squarely upon the creditor, who must establish their claim "beyond a reasonable doubt"
- **Commencement of Proceedings** – No action or proceeding to set aside the settlement, or by any person claiming to have had an interest in property before being settled into a Trust, will be entertained by the Court, if the action or proceeding commences two years after the settlement of the Trust or the settlement of the property
- **Forced Heirship** – any forced heirship rights in the jurisdiction of the Settlor or Beneficiaries do not overrule the provisions of a Nevis Trust
- **Taxation** – All trust assets and any income deriving thereof are totally exempt from; estate, corporation, gift, income, inheritance, withholding, succession and stamp taxes in Nevis

A Registered Nevis Trust – Details Needing to be Submitted

A Registered Trust is one where the Trustees must register the trust details with the authorities. In Nevis this registration includes detailing:

- a) the trust name
- b) the registered address of the trust
- c) the name of the Trustee
- d) a signed declaration stating that the trust complies with the Ordinance and is an International Trust.

This is all the detail which currently needs to be filed and the provision of this limited information ensures that the confidentiality and anonymity of the client is still able to be maintained.

Criteria to Qualify as a Nevis International Exempt Trust

In order to be classified as a Nevis International Exempt Trust, the Trust must fulfil the following requirements:

- At least one of the Trustees must be a Trust Company e.g. Dixcart Management Nevis Limited, licensed by the Government to undertake trust business in Nevis, or a corporation incorporated under the Nevis Business Corporation Ordinance (commonly known in other jurisdictions as an IBC); and
- The Settlor and Beneficiaries must at all times be non-residents of Nevis; and
- The trust property must not include any land in the Federation of St. Kitts and Nevis.



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Common Law Trusts

Common Law Trusts have been used for many hundreds of years in Common Law countries deriving their basis of law from the United Kingdom. They are created when an individual (the Settlor) transfers assets to a Trustee to control and manage the assets on behalf of specified individuals (the Beneficiaries). The Trust is a legal arrangement whereby the assets of the Trust belong legally to the Trustees to hold for the benefit of the Beneficiaries.

As long as the Trust is established with a Nevis Trustee and the Settlor or Beneficiaries are not Nevis residents, then no taxation will arise on the income or gains within the Trust. As no income is to be subject to tax in the island, there is no need to register the trust with any authorities or to file any details of the activities within the trust.

A Common Law Trust appointing a Nevis corporation as Trustee and which does not seek registration under the Nevis International Exempt Trust Ordinance does not need to file details of any aspects of the Trust with the authorities in Nevis.

Additional Information

In conclusion, Common Law Trusts can be established in Nevis without any registration of detail and are a well-known and dependable vehicle for asset management and family control.

Registered Nevis International Exempt Trusts can secure additional advantages for the protection of assets. Coupled with the Nevis LLC, to hold the underlying assets of the Trust, these two entities together make a powerful defence for your assets.

The Nevis Registered Trust Ordinance is considered to be one of the most appropriately framed forms of trust legislation in the world.

Whilst this note is intended to provide information regarding Nevis Trust structures and examples of how these can be used, it is not intended to form any sort of legal or tax advice. We strongly recommend that any individual considering setting up a wealth planning structure seek independent legal and tax advice before doing so.

Get in touch

If you require any additional information or wish to discuss your structuring needs further, please contact Dixcart at:

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