



Legal Briefings

Understanding Irrevocable Trusts in the Cayman Islands

Overview

Irrevocable trusts are a crucial instrument in estate planning, particularly in jurisdictions like the Cayman Islands, known for its robust legal framework and favourable tax environment. An irrevocable trust in the Cayman Islands is a legal arrangement where assets are transferred by a grantor or settlor to a trustee, who manages them for the benefit of designated beneficiaries, and the trust cannot be revoked or terminated by the grantor or settlor. This structure is often chosen for its asset protection features and privacy benefits, particularly for individuals seeking to safeguard their wealth from future creditors or legal claim.

In the Cayman Islands, the legal system supports the establishment of irrevocable trusts, specifically designed to cater to international clientele seeking to secure their assets against potential creditors, divorce proceedings, or other financial claims. Once assets are transferred into an irrevocable trust, the grantor or settlor relinquishes control, thereby ensuring that the trust's assets are legally separated from the grantor's estate. This permanent separation between the trust assets and the grantor's estate has specific legal and tax implications.

Cayman Islands irrevocable trusts also enjoy confidentiality, as trust documents are not publicly recorded. This privacy is particularly appealing to high-net-worth individuals and families. Additionally, the jurisdiction's lack of capital gains tax, estate tax, and inheritance tax further enhances the appeal of irrevocable trusts for wealth preservation and succession planning.

Key Features of Irrevocable Trusts

In the Cayman Islands, irrevocable trusts have several distinct legal characteristics that differentiate them from other types of trusts, particularly revocable trusts. These key features including the following.

- i. **Irrevocability:** As the name suggests, irrevocable trusts cannot be revoked, or terminated by the grantor or settlor once they are established.
- ii. **Asset Protection:** Since the grantor or settlor retains no control over the assets once placed in an irrevocable trust, those assets are generally protected from creditors and legal claims against the settlor. This feature is particularly valuable for estate planning and asset protection strategies.
- iii. **Beneficiary Rights:** In an irrevocable trust, the rights of the beneficiaries are generally defined clearly from the outset. Beneficiaries may have enforceable rights to the income or capital of the trust, which cannot be altered by the grantor/settlor. This contrasts with revocable trusts, where beneficiaries' rights can change if the grantor/settlor modifies the trust.
- iv. **Settlor's Control:** The grantor/settlor of an irrevocable trust typically relinquishes control over the trust assets and the trust's management. This differs from a revocable trust, where the grantor/settlor can retain control and amend terms as needed throughout their lifetime.

- v. **Tax Implications:** Whilst there are no taxes on income, capital, profits or gains in the Cayman Islands, irrevocable trusts may have benefits regarding estate taxes in the jurisdiction where the grantor/settlor is domiciled since the assets are no longer considered part of the grantor/settlor's estate.
- vi. **Trustee Powers:** The powers of the trustee in an irrevocable trust are often more clearly defined, as the settlor cannot subsequently direct or change these powers. The trustee has a fiduciary duty to act in the best interests of the beneficiaries, managing and distributing trust assets according to the terms set out in the trust deed at the establishment of the trust.
- vii. **Duration and Administration:** Irrevocable trusts may be subject to specific rules regarding their duration and administration. Depending on the terms set by the settlor/grantor and applicable laws, these trusts may continue for a long period or until specific conditions are met.

Conclusion

Understanding these characteristics is crucial for individuals considering establishing a trust in the Cayman Islands, as they can significantly impact estate planning, asset management, and the protection of assets.

Further Assistance

This publication is not intended to be a substitute for specific legal advice or a legal opinion. If you require further advice relating to the matters discussed in this Briefing, please contact us. We would be delighted to assist.

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