



Belize Trusts are governed by the Trusts Act; Chapter 202 of the Laws of Belize, with amendments in regards International Trusts introduced by the latest Belize Trusts (Amendment) Act 2007.

The trust laws of Belize currently represent one of the strongest and most flexible asset protection trust legislation in the world. In 1992 rather than copying legislation of other international trust jurisdictions, designed its own solutions in conjunction with leading US and British trust experts in leading law firms.

Belize asset protection trust is commonly used in conjunction with an International Business Company. By using a trust to hold shares in the IBC, an additional layer of legal protection is provided for the owner. All our trusts are registered and administered by a resident and licensed trust agent in Belize.

Under the Belize Trust Act, a trust formed under Belize trust laws, cannot be changed or set aside by a foreign court. The validity of the trust will be upheld against any such claims with regards to, marriage, or divorce, forced heirship, or creditor claims in cases of bankruptcy or insolvency. A creditor will be required to plead his or her case in a Belize Court. A court governed by asset protection laws that are very debtor friendly.

Is this too good to be true? Belize did not intentionally draft laws to flout the judgements of international courts, but as a sovereign nation, it reserves the right to carry out its own laws written to safeguard assets placed under its protection and jurisdiction.

The main reasons why Belize asset protection statutes are superior to all other jurisdictions.

A Belize court will not set aside the trust, or its assets transferred into trust that has been legally established in Belize. Belize frames this legislation in strong and unequivocal language that leaves no room for decent or argument or any other kind of creative interpretation.

Section 7 (6) of the Belize Trust Act.

1. Where a trust is created under the laws of Belize, the court shall not vary it or set it aside or recognise the validity of any claim against the trust property pursuant to the law of another jurisdiction or the order of a court of another jurisdiction in respect to-

(a) *The personal and proprietary consequences of marriage or the termination of marriage*

(b) *Succession rights (whether testate or intestate) including the fixed shares of spouses or relatives;*

(c) *The claims of creditors in insolvency.*

Section 7 (7) The Belize Trust Act further strengthens this provision:

Subsection (6) above shall have effect notwithstanding the provisions of section 149 of the law of Property Act, section 43 of the Bankruptcy Act and the provisions of the Reciprocal Enforcement of Judgements Act.

Summary.

Rather than including in the statute of limitations on fraudulent conveyance, limiting the time in which a creditor can bring a fraudulent transfer claim for assets placed into trust, the attorneys who wrote the Belize Asset Protection Trust Act opted to eliminate the option of making fraudulent transfers claims entirely. Therefore, the assets are effectively protected once they are placed into the Belize trust, so instead of waiting to place the assets into the trust 2-6 years prior to a possible challenge, as provided in other jurisdictions, the protection in Belize is immediate.

2. Creditor remedies such as fraudulent conveyance charge or the issuance of a Mareva injunction are specifically addressed and subsequently rendered powerless by Belizean Law.

Bank Accounts: Our recommendation is that Bank accounts should not be attached to a Belize trust. The reason for this is that whilst assets are protected in the trust, unless the bank account is opened in Belize, and the account is in another jurisdiction, there is a danger that an order may be made against the bank, which is outside of the protection of the Belize trust. Currently there are no good banks in Belize, however that may change in the future. Therefore, we do not recommend holding cash deposits with the trust.

Tax Planning: We do not recommend using a Belize Trust as a part of tax planning unless such activities are recommended by the clients Accountants or Lawyers. We are not qualified to provide accountancy, tax or legal advice and recommend clients discuss such matters with their professional advisers. We are happy to discuss all aspects of your application with your professional advisers by prior arrangement.

A Trust is a specific legal relationship, mostly known in the Common law. By means of a Trust, the owner of certain assets (Settlor) transfers these assets to an independent other party (Trustee). The Trustee, in turn, is legally bound to maintain and manage these assets for the benefit of another person or group of persons (Beneficiaries)

DEFINITION The Trust is defined in section 2 of the Belize Trusts Act as follows:

A Trust exists where a person (known as Trustee) holds or has vested in him/her or is deemed to hold or have vested in him, property which does not form, or which has ceased to form, part of his own estate.

- a. *for the benefit of any person (known as beneficiary) whether yet ascertained or in existence;*
- b. *for any valid charitable or non-charitable purpose which is not for the benefit only of Trustee*

PARTIES TO A TRUST

The Settlor

is the person who creates the Trust by placing a certain asset that s/he owns into the Trust, i.e. by transferring that asset to another person (Trustee) along with clear instructions that the asset be held for the benefit of a third party. The Settlor may be either an individual or a legal entity.

The Trustee

is the entity to which the legal title to the asset is transferred by the Settlor. While in full control of the trust assets, The Trustee is under a legal obligation to maintain the trust property in the best possible manner for the benefit of the Beneficiaries. The Trustee is legally precluded from using the trust asset for his own ends.

The Beneficiary

is the third party for whose benefit and profit the trust asset is held and managed by the Trustee. The Beneficiary or Beneficiaries may be either specifically named in the Trust Deed or may be a sufficiently defined group of persons (for example "all children and grandchildren"). As a particular twist, the Settlor of a Trust may also be named as the Beneficiary. The Trust may also be created for charitable purposes.

The Protector

It not a mandatory party to all Trusts but may be chosen by the Settlor. The function of the Protector is to supervise the Trustee, thus providing additional assurances to the Settlor that the trust assets are properly managed. In extreme circumstances, the Protector may remove or replace the Trustee. The function of the Protector may be undertaken by the Settlor or the Beneficiary, although usually it is vested in a trusted friend or advisor of the Settlor.

ADVANTAGES AND APPLICATIONS OF THE TRUST

The main benefit of a trust is that it allows the formal ownership of an asset to be legally separated from the enforceable rights of beneficial use and enjoyment of that asset. Because of this characteristic, trusts are a widely used for asset protection and estate planning.

An offshore trust (a Trust established in an offshore jurisdiction – like Belize International Trust) provides the additional benefit of no taxation.

Some of the most common applications of offshore trusts are as follows.

Asset Protection.

Assets transferred by the Settlor to a Trust no longer form part of the estate owned by the Settlor. Therefore, potential creditors of the Settlor do not have recourse to such assets. As the trust assets are not considered to be the property of the Settlor, the Settlor cannot be indicted for not reporting or declaring such assets. For asset protection purposes, it is important that the Trust is established well in advance, ideally at a time when the Settlor could not even anticipate the existence of the future creditors. The Trust established to defeat existing creditors may be found to be fraudulent and, therefore, invalid.

Confidentiality.

As trust assets are not deemed to be the property of the Settlor, trusts are often used to hold assets that would otherwise have to be reported or declared by the Settlor in his country or residence. Trusts are widely used to hold shares in an IBC or in other offshore assets where the true ownership must be kept away from public scrutiny. This way, a legal additional level of confidentiality is provided for any offshore-based

Estate planning and probate avoidance.

In most jurisdictions the estate of a deceased must go through a probate procedure. This may be a lengthy and costly process, also involving undesired publicity during the distribution of the estate. By establishing a trust, the probate can largely be avoided, because the ownership to the trust assets has been transferred during the life of the Settlor. Hence, the death of the Settlor does not influence the Trust assets in any meaningful way and the Trust continues an uninterrupted operation for the benefit of the beneficiaries after and beyond the demise of the Settlor. Through a Trust, a person may lay precise plans for providing a source of income for his remaining family, make provisions for the education of children or for emergency situations in the family. A trust is arguably the most appropriate and flexible instrument for making arrangements of this kind.

Avoidance of forced heirship.

For various reasons, an individual may not wish his property to pass outright to his heirs, and may wish instead to make some other arrangements. However, in many countries the

law does not permit a person to freely dispose of his property in the event of his death. Rather, the law may prescribe that certain heirs (usually, the closest blood-relatives) may not be excluded from inheritance and must receive a predetermined minimum share of the estate – even if the deceased would not have wished them to receive anything. As trust property will not be deemed to constitute part of the Settlor's estate, such property will not also be subject to any such forced heirship rules. In essence, a Trust may largely fulfil the function of a Last Will and Testament, without being subject to onerous regulations.

Estate planning and long-term preservation of assets.

An individual may wish to ensure that the business built, or the wealth accumulated over a lifetime is not divided up among the heirs and consumed irresponsibly, but retained to accumulate further, with provision for payments to members of the immediate family as the need arises. If the shares in the business are transferred to the Trustees prior to death of the owner, the Trust can be used to prevent the unnecessary liquidation of a family company. The terms of the Trust Deed may then include detailed provision for payments to be made to members of the family from dividend income received by the Trustees but

QUALIFICATION FOR A BELIZE INTERNATIONAL TRUST ("OFFSHORE TRUST")

As defined by the Belize Trusts Act, an "International Trust" or "Offshore Trust" is a trust where:

- a. the settlor is not resident in Belize;*
- b. none of the beneficiaries are resident in Belize;*
- c. the trust property does not include any land situated in Belize;*
- d. the law of Belize is selected as the proper law of the trust; and*
- e. in case of a purpose trust, the purpose or object of the trust is to be pursued or performed outside of Belize.*

As opposed to domestic trusts under the Belize Trusts Act, which do not require a written form and official registration to be valid, International Trusts must be in writing, properly filed and registered with the Registrar of International Trusts in Belize.

The following information is registered and maintained by the Belize Registrar of International Trusts in respect to every International Trust:

- a. Name of the trust;*
- b. Date of settlement of the trust;*
- c. Date of registration of the trust;*
- d. Name of the trustee;*
- e. Name of the protector (if any);*
- f. Name and address of the trust agent.*

Purpose of the trust may also be stated in the application but is not mandatory.

Notably, the Registry does not require the Trust Deed itself to be filed, neither does it require to reveal any details whatsoever about the settlors and beneficiaries of the trust, nor any information about the trust assets.

An International Trust is registered in Belize by means of the Trust Agent filing a specific application form and affidavit, following which the International Trust is issued with a numbered certificate of registration.

While remaining sufficiently confidential and simple, the procedure of mandatory registration of International Trusts in Belize ensures that the interests of the would-be settlors and beneficiaries of the trust are best served by providing them with a written confirmation that their International Trust has been properly established in accordance with a certain set of legal standards. This way, the official registration basically provides an additional assurance of the enforceability and integrity of the International Trust.

REGULATION OF TRUST FIRMS IN BELIZE

The Belize International Financial Services Commission (pursuant to the International Financial Services Commission Act, Chapter 272 of the Laws of Belize, licenses and supervises Trustees in Belize).

All practitioners in the offshore industry, including Trustees, must be licensed by the Commission before engaging into any of the international financial services. The Commission is the regulatory body for the offshore sector and has developed a rigorous set of criteria that an applicant must satisfy before being licensed. In particular, any Trust firm must prove a high standard of staff competence and integrity, have adequate internal system of controls and procedures and must be substantially capitalized.

Our trusts are formed and administered by a Belize licensed and registered agent in Belize.

