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Trusts

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BY ANDREW HOLDEN

Gibraltar – 1,400 feet of stability

1,400 feet high, and emerging vertically out of the western Mediterranean, the Rock of Gibraltar evokes stability, solidity and permanence the world over.

For America's Prudential Insurance Company, the Rock became their corporate logo: "*The Prudential has the Strength of Gibraltar*" ran the traditional advert. For Ella Fitzgerald, her love was "*as solid as the Rock of Gibraltar*." The Rock has even made it into the Oxford English Dictionary as a yardstick for permanence and safety.

In times of significant and occasionally disruptive change in the offshore trust industry, practitioners will naturally be searching for similarly solid foundations for their trust and fiduciary structures. In this field, Gibraltar has for many years cultivated a well-earned reputation for stability. In particular, the past few years have seen Gibraltar develop its legislative and regulatory framework, its local industry, and its court system in ways that make it an increasingly attractive choice for international private wealth business.

THE ABACUS GROUP

Abacus is an independent, privately owned group of companies, established in Gibraltar over 40 years ago. We provide comprehensive financial solutions and services to both private and corporate clients worldwide. Four decades of expertise in wealth management, corporate structuring, international pensions, tax, fund administration and accounting services help us create and deliver professional solutions that are simple, effective and bespoke. Clients that choose to work with us will benefit from a broad range of integrated services that will be personally selected to suit their needs and implemented to our highest service standards.



Legislative support

Gibraltar is home to many very substantial fiduciary structures, often with connections to the UK (including UK resident non-domiciled settlors), but also hosts structures established by and on behalf of international clients looking for a European entrepot.

Gibraltar's legislature – which is independent of the UK Parliament – has accommodated and improved the landscape for this business via a series of innovative legislative developments. In particular, a series of statutory reforms in 2015 has given Gibraltar unique or cutting-edge and competitive features that increase its attractiveness as a trusts centre. Thus:

- ▶ The Trusts (Private International Law) Act 2015 provides for a modern, comprehensive firewall regime to protect Gibraltar trusts from the enforcement of foreign orders, while (uniquely) linking this regime to the EU Single Market framework by rendering the firewall protection subject to EU law. The result is an attractive 'hybrid' firewall regime, in which EU civil and commercial judgments are liable to be enforced in Gibraltar, but non Member State orders and orders pertaining to, for example, forced heirship regimes may be excluded by the firewall. The merits of such a regime for settlors looking to protect their structures, but without the reputational risk of a firewall that is incompatible with EU law, is obvious. It remains to be seen how the Gibraltar model of firewall will adapt to Brexit, but it may well be that the hybrid model will be modified and continue to work well if the UK accedes to the Lugano Convention.
- ▶ The Purpose Trusts Act 2015, which clarifies the right under Gibraltar law validly to create and administer non-charitable purpose trusts. The 2015 Act has some unique features over and above purpose trust legislation in competitor jurisdictions, and provides a comprehensive modern framework enabling the creation of NCPTs, including in commercial contexts such as securitisation transactions structured through a trust relationship.

- ▶ The Private Trust Companies Act 2015: again, a modern and cutting-edge/competitive framework for the incorporation and administration of PTCs.

The jurisdiction is also to be praised for its innovative approach to regulation. For example, in 2018 the Gibraltar Financial Services Commission introduced a comprehensive regulatory framework for Distributed Ledger Technology, enabling entities to be licensed as regulated 'DLT Providers'. In circumstances in which English law has only recently recognised that cryptocurrencies are a species of property capable of, for example, being held on trust (see e.g. *AA v Persons Unknown* [2019] EWHC 3556 (Comm)), the Gibraltar DLT Regulatory Framework is evidence of a strikingly accommodative and forward-looking local regulator.





A strong professional network

As many practitioners will be well aware, enhanced legislative support for trust and fiduciary structures counts for little if the jurisdiction is not supported by well-trained and trustworthy trustees, accountants, lawyers and other professionals.

In that regard, Gibraltar is fortunate to have a large and well-resourced trust and professional network: it has over 50 licensed trustees, including several well-known and highly-regarded full-service fiduciary businesses such as Abacus, Finsbury, and Line. In addition, Gibraltar has over 200 practising advocates, including full-service firms such as Hassans, ISOLAS LLP, TSN, and Triay & Triay, and litigation boutiques such as Signature, and including over a dozen Queen's Counsel for Gibraltar.

In my experience, having a 'local QC' to complement a legal team that may also contain English solicitors/barristers is something that cultivates client confidence. If litigation ever becomes necessary, Gibraltar is also flexible enough to give the client access to specialist English counsel, who can be admitted to the Gibraltar Bar for the purpose of specific cases. There is thus the 'best of both worlds' – a thriving local Bar, with the ability to bring in English counsel in more complex cases requiring specialist input.

Wigs and wisteria – Gibraltar's court system

The Gibraltar Law Courts are housed in a charming and fully functional building on Main Street. Walking into the building under a canopy of wisteria, practitioners have access to four full-service courtrooms, which were fully refurbished and modernised in 2012, and are used for all civil and commercial matters. The court of first instance is the Supreme Court, and under Chief Justice Anthony Dudley it has developed over the past few years in particular a reputation for fair, impartial, and expert judgments in respect of Gibraltar trusts.



Appeals from the Supreme Court are to the Gibraltar Court of Appeal, which has two sittings a year and is staffed by some of the most distinguished retired English Court of Appeal judges (including, presently, Sir Colin Rimer, Dame Janet Smith, and Sir Patrick Elias). And as with other British Overseas Territories, the court of final appeal for Gibraltar remains the Privy Council. The result is that Gibraltar boasts as strong and fair a judicial framework as any trust jurisdiction.

Summary

The Gibraltar trust industry may operate in the shadow of the imposing Rock of Gibraltar, but the foundations on which it stands are just as solid. Gibraltar's accommodative legislation, innovative and engaged regulator, talented trust, legal and professional services industries, and powerful Court system make it an attractive choice for private wealth and fiduciary business the world over. After all, who wouldn't want their structures to be "as solid as the Rock of Gibraltar"?



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Andrew is a chancery and commercial law specialist, whose highly-regarded practice encompasses trusts, fraud and asset tracing, probate and estate administration, and commercial litigation and arbitration.



Gibraltar and Great Britain

Gibraltar's long association with Great Britain dates back as far as 1704 when, during the War of Spanish Succession, a force led by Admiral Rooke captured the Rock on behalf of the pretender to the Spanish throne, Archduke Charles of Austria. Subsequently, in 1713 Spain ceded Gibraltar to Great Britain in perpetuity under the Treaty of Utrecht.

For most of its history, Gibraltar has been a British colony under the administration of a Governor. For well over 250 years the Rock served as an important strategic base in the Mediterranean and played key roles in the Battle of Trafalgar, the Second World War and the Falklands War.

The 1969 Gibraltar Constitution represented a major advance in the rights of its citizens, providing for an elected House of Assembly and the transfer of certain powers that were previously vested in the Governor to the local Government such that the territory acquired the authority fully to manage its own civil and fiscal affairs. Great Britain nonetheless retained responsibility, inter alia, for defence and international matters but, notably, also exercised the right to appoint the Financial Secretary and the Attorney General.

The 2007 Constitution advanced the cause of Gibraltarian self-determination as far as legally possible without the territory becoming an independent state. Thus, in addition to the transfer of further reserved powers from the Governor, who, whilst he remains a British Government appointee, has largely become Her Majesty's representative

on the Rock, other significant and not merely cosmetic changes were brought in. Both the Financial Secretary and the Attorney General became Gibraltar Government appointments; the House of Assembly became the Gibraltar Parliament; the number of elected members increased from 15 to 17; most importantly, clause 44 determines that whilst executive authority vests with Her Majesty the Queen, it is the Gibraltar Government, and not the Governor or any other UK-appointed official, which is empowered to exercise such authority on Her behalf.

Whilst the Gibraltar Parliament introduces relevant legislation as required, the Gibraltar legal system is underpinned by English common law and cases decided in both the UK and overseas common law courts have application locally. In particular, Gibraltar recognises and gives full effect to the concept of the trust. Cases involving Gibraltar trusts are heard in the Supreme Court of Gibraltar with any subsequent appeals being heard before a Court of Appeal comprised of four senior retired UK judges. The court of ultimate appeal in Gibraltar is the Judicial Committee of the Privy Council in London.

Gibraltar agreed a double taxation agreement with the UK in November 2019 which came into force in March 2020. Whilst Gibraltar voted overwhelmingly to remain in the EU in the 2016 referendum, it exited the EU with the UK in January 2021. The terms of Gibraltar's exit from the EU have had and will have no impact on the attraction of Gibraltar as a stable English law jurisdiction where trusts can be safely established and administered.

**THE ATTRACTION OF GIBRALTAR AS A
STABLE ENGLISH LAW JURISDICTION
WHERE TRUSTS CAN BE SAFELY
ESTABLISHED AND ADMINISTERED.**



**RESILIENT
HISTORY
STRATEGY
ROBUST
DEFEND
TRUST
REINVENT
PROACTIVE**



THE OECD GLOBAL FORUM ON TRANSPARENCY AND OF
"LARGELY COMPLIANT" IN THEIR PHASE II REPORT
– THE SAME RATING AS THAT OF THE UK AND US.

Setting high standards

The Government of Gibraltar has a mission to promote Gibraltar internationally as a centre of excellence and a jurisdiction of choice for financial services. The Government's stated belief is that a strong regulatory system provides an environment for businesses and individuals to prosper.

The Gibraltar Financial Services Commission (GFSC) regulates the financial services industry in Gibraltar with the aim of protecting consumers and protecting the reputation of Gibraltar as a modern and respectable financial services centre. The GFSC regulates a broad range of service providers including professional trustees.

Gibraltar has endorsed and implemented international initiatives in respect of direct taxation and anti-money laundering. It has committed to the OECD Convention on Mutual Assistance in Tax Matters and has concluded 27 Tax Information Exchange Agreements. It has also implemented the provisions of FATCA with respect to the USA and the UK and the Common Reporting Standard with the EU and has been an OECD 'white listed' jurisdiction since 2000.

**GIBRALTAR BENEFITS FROM A
ROBUST, YET FLEXIBLE AND
ACCESSIBLE REGULATOR**



Trust law in Gibraltar

Trust law in Gibraltar is based on English common and statute law and Gibraltar fully recognises the concept of the trust. Lawyers in Gibraltar will have trained and qualified in the UK as either barristers or solicitors and are well versed in trust law. The main governing Act is the Trustee Act of 1895 which is based on the 1893 Act in the UK. In 1989 Gibraltar introduced the Trusts (Recognition) Act which applies the provisions of the Hague Convention on trusts agreed in 1984.

Asset protection trusts were introduced in 1990 by an amendment to the bankruptcy law such that a disposition is not voidable at the application of a creditor if at the time of settlement the settlor is an individual, was not insolvent and did not become so as a result of the settlement. The trust must be registered.

More recently the Registered Trusts Act 1999 provides a facility for the voluntary registration of trusts. The only details retained in the Register are the name of the trust, the name of the trustees and the registration date.

The Purpose Trust Act 2015 allows for the creation of trusts for the benefit of specific and identifiable purposes which are not charitable. The Trusts (Private International Law) Act of the same year is 'firewall' legislation setting out rules limiting the circumstances under which foreign law can impact on a local trust and preventing the enforcement of foreign judgements thus providing a secure environment for trusts established under Gibraltar law.

COMMON USES FOR A TRUST

- ▼ FAMILY PROTECTION AND ASSET MANAGEMENT
- ▼ FORCED HEIRSHIP
- ▼ AVOIDANCE OF PROBATE FORMALITIES
- ▼ IMMIGRATION/EMIGRATION
- ▼ PRIVACY & CONFIDENTIALITY
- ▼ PREVENTION OF DIVISION OF ASSETS
- ▼ CONTROL OVER BENEFICIARIES' SPENDING OF TRUST ASSETS



Trusts in practice:

Some of the main benefits explained



Succession planning: trusts vs wills

An *inter vivos* (literally “during one’s lifetime”) trust is so described to distinguish it from a will trust. In the United Kingdom, Gibraltar and most other countries with Anglo-Saxon jurisprudence, the majority of trusts are created by operation (i.e. implementation) of a will after the person’s death.

However, the principal effect of an **inter vivos discretionary trust**, by contrast, is to bring forward such arrangements to a time when the **settlers** (i.e. the people who own the assets to be transferred into it) are still alive.

Thus, by transferring assets to a trust, from the moment of its creation until the time of their death, settlers are able to make whatever arrangements in relation to their capital and income that they want for their **beneficiaries** as well as have use of the trust assets themselves if they so wish.

For example, they might ask their trustee to put aside or invest a capital amount for the benefit of a child so that when

that child reaches the age of majority or an appropriate age of maturity, he/she is able to benefit from either the capital or income or both from that set-aside fund.

A settlor may ask the trustee to invest capital in manner that sufficient income be generated to maintain a child at university or pay school fees, with the capital being held over until the child reaches an age where it may be distributed to him or her outright or perhaps even held back until later in his/her life or even, ultimately, for the benefit of the settlers’ grandchildren instead.

Alternatively, at the other extreme, it may be that settlers have not yet decided how the capital is to be split, held or distributed after their deaths and, instead, they prefer the trustee to hold and invest the assets as a general fund, awaiting developments or direction from the settlers further down the track.

Across such a spectrum, a trust provides this freedom and flexibility of planning for the succession of assets.



02

Flexibility of arrangements

Typically, a discretionary trust deed will be silent as to the intentions of the settlors and will instead be the formal document which sets out the legally binding powers of the trustee and any limitations thereon. In this way, it provides settlors and trustees with the complete flexibility in future to, for example:

- ▶ Add beneficiaries
- ▶ Exclude beneficiaries
- ▶ Make distributions of any kind and magnitude to beneficiaries, whether in cash or specie
- ▶ Appoint or exclude a Protector
- ▶ Invest, buy or sell assets of any kind and a range of other more minor powers. Note that a trust is NOT a company, it is a legal relationship between trustee and beneficiaries.

A **discretionary trust deed** therefore bestows extensive, formal, legally binding and important powers on a trustee.

How is the trustee, then, to make use of such general and wide-ranging powers? We do so under the specific guidance of a **letter of wishes** and it is in this

document that settlors will set out their particular intentions with respect to, for example:

- ▶ Their own use and enjoyment of trust assets during their lifetimes
- ▶ Whether one or both of them is required to approve changes to letters of wishes
- ▶ Who they intend to be the beneficiaries of the trust
- ▶ The amount pertaining to each beneficiary
- ▶ At which times beneficiaries are to receive their share or part of it
- ▶ Any specific legacies or bequests
- ▶ Whether a beneficiary is to be entitled to some capital only, some income only or both
- ▶ Any excluded persons

The main virtue of such a trust, therefore, is to permit

- ▶ Planning for the succession of assets during one's lifetime
- ▶ The implementation of that planning during one's lifetime, with
- ▶ The flexibility to change the plans, as well as
- ▶ The continuation of these plans following the death of one or both settlors

03

Asset protection

This is very important dimension to the creation of a trust in today's world, particularly for those in business or who live in countries suffering a degree of political or other instability.

We often see the shareholding in a business coming into a trust because, whilst the business may continue to operate in the country in which it is established, its ownership and control is effectively removed to a different jurisdiction (like Gibraltar) which enjoys political stability, a robust legal system and a benign business, taxation and legal environment.

The transfer of assets into a trust may also assist with the protection of assets from a variety of

claims or attacks such as

- ▶ Seizure by the state or authorities;
- ▶ Claims by creditors, whether legitimate or otherwise;
- ▶ Attempts by competitors or unscrupulous officials to defraud settlors
- ▶ Divorce proceedings and gold-diggers

When assets are in the hands of an offshore trustee, the trust can provide significant legal and jurisdictional protection and obstacles against these claims and attacks because ownership and control is vested in a foreign, corporate third party with objective independence.

“ FLEXIBILITY TO CHANGE THE PLANS, AS WELL AS THE CONTINUATION OF THESE PLANS FOLLOWING THE PASSING OF ONE OR BOTH SETTLORS. ”





04

Estate planning

Often referred to as 'forced heirship' jurisdictions (the civil law systems of most European countries are good examples), the law in certain countries provides for the transfer of ownership of certain assets on the death of an individual to pass to specific family beneficiaries in a particular required order and percentage.

The prior transfer of certain assets into a trust, under a legitimate conveyance of the property concerned, can assist settlors to arrange for part or all of their estate to pass to beneficiaries other than those scrupulously defined by the law of their domicile.

05

Professional investment management / advice

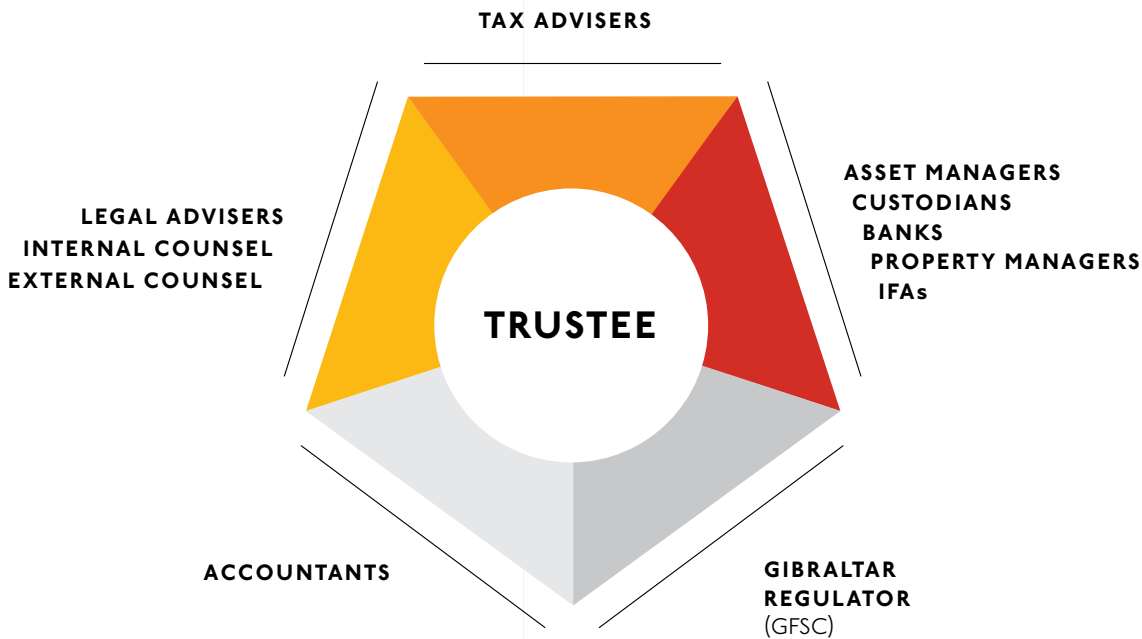
Once the trust is created, settlors can choose to continue to have the assets managed by their professional advisers of choice under the trustee's authority. It is simply a question of replacing the settlors with the trustee on the investment manager's mandate.

Types of trusts

A wide range of trusts is available and the most appropriate for you will be aligned with the reasons for the establishment of your structure and the goals you are seeking to achieve. As your trustee, we will guide you on which trust is the most suitable for you, as will your lawyer and tax adviser.

The most common types of trusts

- DISCRETIONARY TRUSTS
- WILL TRUSTS
- FIXED TRUSTS
- PURPOSE TRUSTS
- ASSET PROTECTION TRUSTS
- EXCLUDED PROPERTY TRUSTS



The role of the trustee

A trust involves the separation of legal and beneficial interest in the trust property. The trustee is the legal owner of trust assets and is responsible for holding and managing the assets held in the trust, accounting for these and dealing with all the tax aspects for the trust, and, in time, distributing the assets according to the terms of the trust deed.

The trustee has a wide range of duties and responsibilities as well as numerous powers granted by the deed of trust. A trustee must adhere to the fundamental principle of acting with professional competence and due care and must always act in good faith and in the interests of the beneficiaries.

In order to fulfil its duties, a trustee will liaise with a range of professional partners as may be required.



Case study:

Family protection and asset management

CLIENT SCENARIO

A client approached Abacus with several concerns that are frequently experienced by high net worth individuals. The client's primary concern was how much information about his wealth he should be sharing with his children as they grew up. He wanted his children to become financially independent and establish their own careers before they became aware of any possible future inheritance. The client had two children from his marriage both under the age of eighteen.

CREATING THE STRUCTURE

On receiving the appropriate tax and legal advice, the client decided that the best course of action would be to settle a large proportion of his assets into a discretionary trust for the benefit of his children and their descendants. This would remove the assets from his estate and, more importantly, from his direct control, placing them in the hands of professional trustees who would not be emotionally involved with the demands of the family. **Settling these assets into trust had the additional benefit of reducing the value of his estate for inheritance tax purposes.**

The client chose Gibraltar due to its established legal precedents and tried and tested court system in dealing with trust matters.

The trust was settled and while the children were still in education funds were utilised periodically to settle annual school fees. There were no other requirements for distributions from the trust; and having appointed appropriate investment managers and advisors after full consideration of the likely future needs of the beneficiaries, the capital value of the trust fund increased significantly. Regular meetings with the client, ensured that the trustees remained fully informed of his wishes and of the ever-changing dynamics of his family.

LIFE MOVES ON...

Years after the creation of the trust the client contacted the trustees advising that as his children had all now established their own careers and were financially independent, he thought the time was right to inform the children about the trust. He wished to seek our input and advice as to how best to explain the trust to the children, its assets and, more importantly, its aims.

The client was pleased when the trustees, as part of their role, took responsibility for this communication. A trustee and family meeting to discuss the structure was arranged at which we were able to advise the children of the nature and value of the assets and the means by which the trust could assist them with their future plans. The family meeting was fruitful and the children, while surprised at the extent of the assets held in the trust, fully understood and accepted the reasoning behind the establishment of the trust and the manner in which the assets were managed by the trustees. They also understood that key decisions in future would be taken by the trustees, albeit in consultation with their father, and that there would be no benefit in lobbying their father for funds.

BENEFITING AS INTENDED...

Moving forward, various family members have approached the trustees, primarily to seek investment in business ideas or to borrow money from the trust to purchase homes, all of which are being serviced by the borrowers.

As the client becomes elderly, he has been gratified by the comfort he takes from engaging professional trustees who honestly care about his family and what is best for them.



Case study: Avoidance of probate formalities

A SIGNIFICANT, YET COMMON CONCERN

Trust practitioners commonly find that clients who wish to set up a trust have concerns about how acrimonious family members will become when decisions have to be made about who benefits from which asset after they have died. Both a will and an inter vivos trust can deal with such a situation. In the case of a will, how can the complications and costs of probate be avoided? How can assets and legacies be transferred to the next generation in a harmonious, stress-free, fair process? While there may be different ways of effectively transferring assets without a will – for example, by establishing joint ownership of bank accounts and joint title to real estate, setting up a Gibraltar discretionary trust is often the most comprehensive option for achieving all these goals – the avoidance of the cost and complexity of probate, the smooth transfer of assets to beneficiaries without third party involvement and the potential for mitigation of taxation on an estate.

FINDING SOLUTIONS

How does a Gibraltar trust help you avoid the formalities of proving a will (probate)?

It should go without saying that no-one with assets ought to die intestate (ie without a formal declaration of how these assets are to devolve after they've died). A will is the most obvious, and often the simplest, way to deal with the transfer of assets after a person's death but the executor of a will needs to go through the process of proving that he/she has the right to execute its terms (a process called probate). In many countries such formalities can take time, cost and administrative effort.

More importantly, however, it is the fixed nature of a will's terms that may become an issue. Intending testators often leave the terms of their wills unchanged for many years whilst their family's circumstances may have changed, sometimes beyond recognition. An inter vivos trust deals effectively with both aspects. By providing a trustee with regular (and administratively hassle-free) updates to their intentions, trust settlors can ensure that following their deaths their assets will pass to their intended beneficiaries smoothly, effectively and quickly.



THE TRUST ITSELF AND ITS
GIBRALTAR TRUSTEE WILL NOT
BE LIABLE TO ANY TAXES
IN GIBRALTAR.



Taxation of trusts

In Gibraltar, trusts established by non-residents of Gibraltar for non-resident beneficiaries are wholly exempt from taxation. There is no inheritance tax, no capital gains tax and no sales or wealth taxes.

Any tax issues that arise in the context of establishing a trust, therefore, are purely in relation to the individual who creates the trust and the beneficiaries but not in relation to the trust itself. Thus, when creating a trust the settlor will need to seek advice as to any liability to tax for:

- ▶ The settlor himself at the moment of transferring assets into the trust (for example, to check if there is a gift tax on the assets he intends to donate into the trust) and
- ▶ The beneficiaries when eventually they receive distributions from the trust, depending on where they are resident for tax purposes.

There are a variety of ways that different countries provide for the taxation of distributed trust income

and capital, and sometimes even if no distributions are made. This issue can only be assessed in by appropriately qualified professionals.

Throughout the time of its existence the trust itself and its Gibraltar trustee will not be liable to any taxes in Gibraltar.

When one or more beneficiaries of a trust are ordinarily resident for tax purposes in Gibraltar it is possible that the trust, too, will be considered tax-resident in Gibraltar. A Gibraltar resident trust is subject to tax at the rate 10% on any taxable income. Taxable income effectively only includes any income from a trade which has accrued in or derived from Gibraltar. There is no taxation on capital gains and other sources of passive income in Gibraltar.

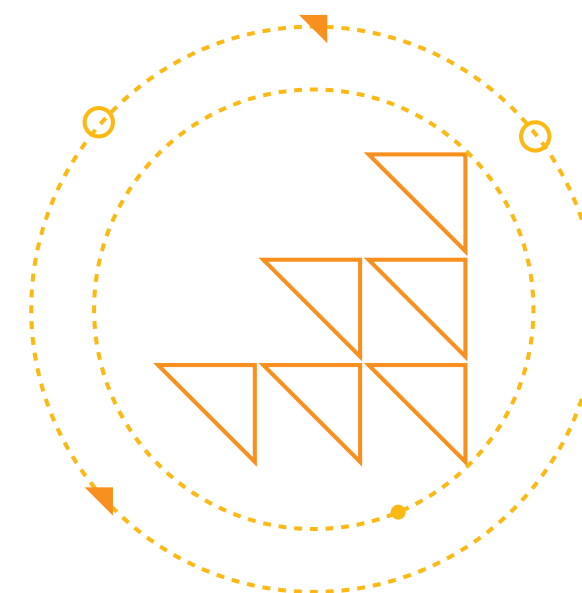
It should be noted that those persons who enjoy the benefits of Category 2 status in Gibraltar are not deemed to be resident persons for the purpose of the residence of any trust of which they may be beneficiaries.

Pricing

GIBRALTAR AS A COST EFFICIENT JURISDICTION

What sets the Abacus Group apart as the service provider of choice in Gibraltar is the high-quality offering you would expect of a well-established professional trustee at a sensible price. We give you access, not just to our qualified Trust and company administration experts, but also the full range of other in-house services.

Abacus clients draw on the expertise of our accountants, legal counsel, fund and pension administrators and compliance officers. In addition to this, our sister company, Abacus Wealth, manages clients' personal and corporate wealth, and assists the trustees with tailored recommendations and solutions for the professional investment of the trust assets where required.





Setting up a Gibraltar trust

Deciding if a trust is right for you requires careful consideration and proper financial planning. We set out a framework below that offers general guidance on what is involved and how to go about it.

Planning stage

- STEP 01** Consider your reasons for wishing to establish a trust and the goals you are looking to achieve from this structure.
- STEP 02** Identify which assets you want to transfer into the new trust.
- STEP 03** Identify who the beneficiaries will be (eg spouse, children, wider family, charity).
- STEP 04** Identify how and when you want your assets distributed (age requirements/ or any specific conditions to benefit from the trust assets).
- STEP 05** Determine if you need or wish to retain any control over these assets.
- STEP 06** Consult a tax adviser in your country of residence to ensure that the structure is feasible and explore any tax benefits or implications associated with the establishment of a trust. You will also have to consider the tax effects in the country in which the assets and potential beneficiaries are currently located.

Implementation stage

- STEP 01** Make your selection on who your trust provider will be. There are multiple advantages for selecting a corporate trustee. We are regulated to provide these services and can help you establish the trust and manage it over its lifetime.
- STEP 02** Contact us and provide an outline of your requirements. Share your initial tax advice, or if you have not yet obtained this, we may be able to introduce you to a suitable tax adviser. We will work in conjunction with your tax adviser to ensure an efficient structure.
- STEP 03** We will discuss the different trusts available, such as discretionary, interest-in-possession, fixed or asset protection trusts, to help determine which is best aligned with your requirements.
- STEP 04** Formally appoint us under a Service Contract.
- STEP 05** We will draft the trust deed. Our internal legal counsel has a wealth of experience in these matters or we can work with your lawyer of choice. The trustee's powers will be discussed with you to include any specific terms that may be important to you and your circumstances.
- STEP 06** Meet our Trust team as they will be your point of contact – you will be given a Relationship Manager.
- STEP 07** We will help you draft a Letter of Wishes to assist the Trustee in fulfilling the aims of the Trust.
- STEP 08** Both parties execute the Trust Deed.
- STEP 09** Assets are transferred by you to the Trustee, thereby creating and settling the Trust.
- STEP 10** Throughout this process we will have embarked on opening a bank account for the trust.
- STEP 11** The Trust takes effect and the trustee takes control of the assets.



Selecting your service provider

The importance of professional know-how

Once the settlor, in conjunction with his legal and tax advisers, has decided on the most suitable jurisdiction for the trust, the second key decision needs to be made, the choice of Trustee.

A corporate trustee has to fulfil the responsibility of “stepping into the settlor’s shoes” and administer the trust with the same rigour, direction and devotion as the settlor himself would have done but with the even higher standard of care and competence imposed by law.

This is a complex task. As the name suggests, the settlor has to trust his trustee, not merely to carry out his wishes during his lifetime, but also to do so perhaps long after his death.

Of course, for the assurance of settlors, there are certain controls provided by law, regulation and practice that safeguard this relationship; the trust deed itself which contains both powers and obligations

that the trustee must discharge; the possibility of a Protector being appointed whose role is to oversee the conduct of the trust by the trustee on the family’s behalf; the fact that corporate trustees are licensed and regulated in a modern and well-established jurisdiction like Gibraltar. Ultimately, the settlor and beneficiaries can sue the trustee. Whilst this may be expensive and stressful, the law is the final recourse available to any disenchanted beneficiary. Litigation is, of course, best avoided by selecting a professional and experienced corporate trustee with a good track record at the outset.

At Abacus, integrity, focus and dedication are our most important core values as a trustee. Our culture is based on excellent teamwork where individual skills, qualifications and strengths come together, the highest standards of professional conduct and placing the interests of our clients at the heart of all we do. This strategy has worked successfully for us and our clients for over 40 years



Our key strengths:

- OVER 40 YEARS’ EXPERIENCE AS PROFESSIONAL CORPORATE TRUSTEES: TRIED, TRUSTED AND TESTED.
- UK QUALIFIED GRADUATES MAKE UP MOST OF OUR WORKFORCE.
- STEP QUALIFIED TRUST PROFESSIONALS, QUALIFIED ACCOUNTANTS AND IN-HOUSE LEGAL COUNSEL LEAD OUR TEAMS
- A TRADITION OF SOUND INVESTMENT KNOW-HOW.
- GENERATIONS OF TRUST STRUCTURING EXPERTISE
- A LARGE GLOBAL PROFESSIONAL NETWORK AND ACCESS TO INTERNATIONAL TAX ADVISERS AND INVESTMENT MANAGERS.
- DECADES OF EXPERIENCE WORKING WITH UK COUNSEL AND TRUST EXPERTS.
- A STRONG AND ROBUST RELATIONSHIP WITH OUR REGULATOR.
- DIVERSIFIED IN-HOUSE SERVICE OFFERINGS SUCH AS COMPANY INCORPORATION AND MANAGEMENT; INTERNATIONAL PENSIONS; ACCOUNTING SERVICES; FUND ADMINISTRATION.
- PERSONAL RELATIONSHIPS ARE VALUED ABOVE ALL ELSE

TRUSTED TO DELIVER VALUE

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