

The Global Guide to Trusts

A SYSTEMATIC ANALYSIS OF THE LEGAL REGIME
AND TAX TREATMENT OF TRUSTS IN 28 JURISDICTIONS

ARGENTINA
AUSTRALIA
AUSTRIA
BELGIUM
BRAZIL
CANADA
CHINA
CYPRUS
FRANCE
GERMANY

HONG KONG
INDIA
INDONESIA
ISRAEL
ITALY
LIECHTENSTEIN
LUXEMBOURG
MALTA
MEXICO
NETHERLANDS

NEW ZEALAND
PORTUGAL
RUSSIA
SOUTH AFRICA
SPAIN
SWITZERLAND
UK
USA

Second edition

Edited by Jean-Marc Tirard

ACADEMY & FINANCE

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The Global Guide to Trusts represents the work of a team of leading outstanding tax practitioners active in **28 jurisdictions** under the editorship of an internationally recognized trust expert. The Global Guide to Trusts facilitates the understanding of international tax issues and provides specific guidance in such facets of international taxation of trusts as the following:

- Tax treatment of the creation of a trust
- Tax treatment of income and capital gains
- Tax treatment of distribution from a trust to its beneficiaries
- Tax implications of settlor's death
- Tax implications of the termination of a trust
- Reporting obligations

The second edition 2020 covers 7 new jurisdictions (**Austria, China, Cyprus, Liechtenstein, Luxembourg, Malta, South Africa**) and expands on **new developments**:

- Sham trusts
- Applicability of tax treaties to trusts
- Applicability to trusts of anti-avoidance tax rules
- Trustees regulation
- Registers of trusts

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Summary

For each jurisdiction, the author answers the same set of 27 questions.

Legal considerations

1. What is the legal system based on in your jurisdiction?
2. Is the concept of trust part of your domestic law?
3. Has your country ratified the Convention on the Law Applicable Trusts and on their Recognition?
4. When the answer to the above two questions is negative, is a trust created under foreign law recognised as such? Alternatively, is the trust (or trustee) analogised to any specific type of domestic person or comparable entity?
5. Are there "similar" or comparable legal structures which can be used in your jurisdiction instead of a trust for estate planning purposes?
6. What legal constraints should be taken into consideration when transferring assets into a trust?
7. Can a trust acquire property in its own name and be registered as such when registration is required? If not, can this be achieved indirectly?
8. Under what circumstances, might a trust be set aside in your country on grounds of sham or for any other reasons?

Tax considerations

9. What are the main taxes which are relevant in respect of trusts?
10. Has your jurisdiction developed specific tax rules to deal with trusts?
11. Are domestic and foreign trusts treated differently in relation to tax?
12. When is a trust considered to be resident for tax purposes in your jurisdiction?
13. Are the tax treaties concluded by your country applicable to trusts?
14. Are there any specific anti-avoidance tax rules applicable to trusts? Are there circumstances under which trusts are at risk under GAAR or anti abuse of law measures?

Tax treatment of the creation of a trust

15. What are the tax consequences of the creation of a trust?
16. Are any transfer and/or capital gains tax due upon lifetime or testamentary transfers of assets to trusts?
17. Is the treatment different depending on whether the transfer is made to a revocable or irrevocable trust? To a life interest or to a discretionary trust?

Tax treatment of income and capital gains

18. Is a trust a taxable entity?
19. If not, who is subject to income/capital gains taxes in respect of the trust's income and gains?

Tax treatment of distribution from a trust to its beneficiaries

20. What taxes apply to distributions of trust income to resident/non-resident beneficiaries?
21. What taxes apply to distributions of capital gains from a trust?
22. What taxes apply to distributions of capital from a trust?

Tax implications of settlor's death

23. What are the tax implications for the trust, trustee, settlor's estate and/or beneficiaries of the settlor's death?

Tax implications of the termination of a trust

24. What are the tax implications for the trust, trustee, settlor and/or beneficiary on termination of a trust?

Reporting obligations

25. Are the trust, trustees, settlors and/or beneficiaries subject to reporting obligations in relation to the trust?

Trustees regulation

26. Are trustees regulated in your country? What are the main regulatory requirements?

Registers of trusts

27. Is there in your country a register of trusts and/or of beneficiaries of trusts? Which trusts should be registered? What information should be provided? Who can access the information? What are the consequences of failure to comply?

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Since 2000, Academy & Finance, a Swiss company with offices in Geneva and Hong Kong, is specialised in the organisation of conferences on tax and estate planning issues. Academy & Finance published "Les trusts anglo saxons et les pays de droit civil" by Jean-Paul Beraudo and Jean-Marc Tirard (2006) and the first edition of the Global Guide to Trusts, edited by Jean-Marc Tirard (2017).

Authors

ARGENTINA Ezequiel Lipovetzky, Pablo Martin Muir & Maximiliano Yudica Bartels, Bruchou

AUSTRIA Niklas Schmidt & Eva Stadler, Wolf Theiss

AUSTRALIA Allan Blaikie & Mathew Fenwick, Clayton Utz

BELGIUM Jacques Malherbe, Simont Braun & François Malherbe, van den Berg & Partners

BRAZIL Fernando Retzler Martins, SV Law

CANADA Wendi P. Crowe & Rahul Sharma, Miller Thomson

CHINA Hao Wang, Ray Yin & Partners P.R.C. Lawyers

CYPRUS Elias Neocleous, Elias Neocleous & Co

FRANCE Jean-Marc Tirard, Tirard Naudin

GERMANY Christian von Oertzen, Flick Gocke Schaumburg

HONG KONG William Ahern, Ahern Lawyers

INDIA Shabnam Shaikh & Bijal Ajinkya, Khaitan & Co

INDONESIA Freddy Karyadi, ABNR Law

ISRAEL Shaul Grossman, Meitar Law Offices

ITALY Nicola Saccardo, Maisto e Associati

LIECHTENSTEIN Johannes Gasser, Gasser Partner

LUXEMBOURG Eric Fort & Marianne Rau, Arendt & Medernach

MALTA Anthony Cremona, Ganado Advocates

MEXICO L. G. Del Valle Torres, Jáuregui y Del Valle

NETHERLANDS T. Clement, Norbruis Clement Advocaat

NEW ZEALAND John W. Hart, John W. Hart Ltd

PORTUGAL Jorge de Abreu & Cidália Conceição, Abreu & Marques e Associados

RUSSIA Dmitry A. Pentsov, Fropiep Legal

SOUTH AFRICA Michael Honiball, Werksmans Attorneys

SPAIN Florentino Carreño, Cuatrecasas

SWITZERLAND Xavier Oberson, Oberson Abels

UK Clare Maurice, Maurice Turnor Gardner

USA Ellen Harrison, McDermott Will & Emery