



FAMILY TRUSTS



FRANCIS J. VASSALLO & ASSOCIATES LTD



Introduction of Family Trusts in Malta

Proposed changes to the local Trusts and Trustees Act are expected to introduce and regulate Family Trusts, ie trusts created to hold property settled by the settlor(s) for the present and future needs of family members of family dependants who are definite and can be ascertained. The proposed legislative changes will allow the services of a private trustee to be carried out in corporate form whereby a company is set-up to act as trustee of such trusts.

Major advantages associated with the introduction of Family Trusts include:

a) No authorisation requirements to act as Trustee

The trustee company shall not require authorisation/licence to act as such but shall purely be required to register with the Malta Financial Services Authority (MFSA).

b) Additional Comfort, Flexibility and a Higher Degree of Control

Family members obtain added comfort since they may retain a certain degree of control over the trust assets since the settlor and/or family members may be appointed as members of the Board of Directors of the trustee company. This is a very flexible alternative to placing assets under the control of third-party professional trustees.

Salient Requirements for the Trustee Company

- ◆ The objects and activities of the trustee company must be limited to acting as trustee in relation to a specific settlor(s) and providing administrative services to a specific (and limited number of) trust(s);
- ◆ The trustee company may not otherwise hold itself out as a trustee to the public;
- ◆ The trustee company may not act habitually as a trustee, in any case in relation to more than five settlors at a time;
- ◆ The Board of Directors of the trustee company must be composed of at least three (3) directors, at least one of which must be an 'approved person' (as defined under the Trusts and Trustees Act) and independent from the settlor(s) setting-up the Family Trust.

Additional Considerations

- ◆ The trustee company must comply with corporate formalities and professional standards as outlined in the applicable laws/regulations/rules;
- ◆ The trustee company would be subject to ongoing supervision;
- ◆ The services of the trustee company may be offered only to specific family trusts.

This paper contains general information only and its purpose is not to provide any specific professional advice whether of a financial, legal, tax or other nature.

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