



KEY FACTS

A trust is formed when one person/legal entity (the trustee, in this case, Osiris) holds the title to a property for the benefit of another (the beneficiary). Osiris will then owe a fiduciary duty to the beneficiaries. Often, settling assets on a trust better serves a person's purpose than placing them in a company.

If assets are used to purchase shares, an indirect proprietor interest is retained in those assets through the shares in the company. When those same assets are transferred to a trustee, direct or indirect ownership is divested. The basic difference in ownership makes the trust a useful financial and tax planning instrument.

Osiris is involved in the formation and administration of offshore trusts, Vista trusts, unit trusts, share incentive scheme trusts and purpose trusts. This includes the provision of trustees and, occasionally, protectors, as well as the handling of trust licence applications.

B V I TRUSTS

As a common law jurisdiction, the BVI is frequently chosen for the proper law and administrative situs of trusts. Instruments of Settlement and Declarations of Trust will then specify that the trust shall be governed by the laws of the BVI.

The Trustee Ordinance, 1961, is the principal statute in the BVI governing the establishment and operation of trusts. Since its enactment, there have been two substantive changes.

VISTA

In 2003 the Virgin Islands Special Trusts Act (VISTA), 2003 came into force. Local trust law was changed by VISTA in the following ways:

- the trustee is prohibited from being or remaining director of a company whose shares are the subject of a VISTA Declaration therefore, they no longer have a fiduciary responsibility for the management or success of the company
- Claims may be directly enforced against the assets of the trust by third parties (e.g. lenders) dealing with trusts.
- Existing protections for trusts are strengthened against forced heirship claims of a trust by a unanimous agreement of beneficiaries may be prevented by settlors for a period of up to 20 years
- A duty to intervene to resolve specific problems may be conferred on a trustee by a settlor
- Rules for the appointment and removal of directors can be laid down by trust instruments, thereby reducing the trustee's ability to intervene in management by appointing directors of their own choice

KEY FACTS

- If trustees violate agreements regarding non-intervention or director appointments and removal, both beneficiaries and directors have the right to apply to court
- The option to make the sale of shares subject to directors' approval
- Specified circumstances may result in the prevention of trustee in interfering in the management or conduct of any business of the company by exercising its voting or other powers
- Only directors or such other persons as are specified in the trust deed have to give consent to the trustees before they can dispose of shares

Further changes made to the BVI Trust Laws in 2004 include:

- If a trustee adopts the relevant provisions of the statute, it will not be made personally liable under any contract which the trustee has entered
- In the case of a trust not being governed by the statute, and if the trust instrument does not provide otherwise, a trustee will only be liable to the third party to the extent of the value of the trust fund when the payment falls due
- A trustee will only be liable for a tort if it is personally at fault
- If a lender requests, a trustee may be required to restrict its future powers of investment, distribution and the powers of appointment and removal of trustees. The purpose of this being the protection of the rights of those dealing with trustees, in the event of a liability being incurred by a trustee

LOCAL REQUIREMENTS

A \$100 Trust Duty is payable on the execution of the trust deed. If the trust beneficiaries are not residents of the BVI, BVI trusts are exempt from all local registration requirements and all BVI taxes.

LONDON

PHYSICAL ADDRESS

2nd Floor
11 Haymarket St
London
SW1 Y4BP

POSTAL ADDRESS

2nd Floor
11 Haymarket St
London
SW1 Y4BP

TEL: +44 (0)207 078 7581

FAX: +44 (0)207 681 3226

for the personalised financial solution

CONTACT:

Peter Todd
peter@osirisgroup.co.uk

ANGUILLA

PHYSICAL ADDRESS

Hansa Bank Building
Landsome Road
The Valley
Anguilla

POSTAL ADDRESS

PO Box 2221
Road Town
Tortola
British Virgin Islands

TEL: +1 284 494 9820

FAX: +1 284 494 6934

CONTACT:

Christine Mackay
christine@osiristrust.com

BRITISH VIRGIN ISLANDS

PHYSICAL ADDRESS

Coastal Building
Wickams Cay II
Road Town, Tortola
BVI

POSTAL ADDRESS

PO Box 2221
Road Town
Tortola VG1110
British Virgin Islands

TEL: +1 284 494 9820

FAX: +1 284 494 6934

www.osiristrust.com

CONTACT:

Christine Mackay
christine@osiristrust.com

IRELAND

PHYSICAL AND POSTAL ADDRESS

31-33 The Triangle
Ranelagh
Dublin 6
Ireland