NORTHERN TRUST

WHY GUERNSEY FOR YOUR TRUST?

If your wealth management and wealth transfer objectives require additional flexibility, establishing a trust structure in Guernsey offers several strategic advantages that may not be available to you elsewhere. Trusts established in Guernsey offer asset protection, perpetual duration, protection from forced heirship claims and tax neutrality.

CONFIDENTIALITY

Privacy and discretion may be of great importance to you and your family. As one of the strictest global jurisdictions, Guernsey regulates these concerns.

Guernsey's 2001 Data Protection Law rigorously protects the confidentiality of personal data such as name, address, date of birth and tax identification. Guernsey's confidentiality laws, however, do not mean the jurisdiction is a "tax haven" to hide income and assets from taxation in other countries.

Guernsey law does not require a trustee to file trust deeds or register its trusts with a public agency, as do some jurisdictions. Nor are there any regulations requiring trustees to publicly file trust account statements, which could reveal information about a trust. Guernsey law permits a trustee to withhold all information about the trust from beneficiaries, unless the Royal Court of Guernsey directs otherwise. Consequently this offers individuals a powerful tool to plan for the future financial well-being of beneficiaries without disclosure to them of wealth held for their potential benefit until an appropriate time. The use of a trust vehicle also provides a forum to protect privacy and personal security; for example where a kidnap risk exists for wealthy individuals or families.

ASSET PROTECTION

Effective wealth planning often includes strategies for preserving and shielding assets from creditor claims. Interest in asset protection has stemmed from a number of trends and economic threats, such as rising divorce rates and the uncertain enforceability of prenuptial agreements.

In response, many high-net-worth individuals are establishing asset protection – or "self-settled" – trusts in jurisdictions that recognise such vehicles. Within these jurisdictions, you may create a trust in which you retain various economic interests as a beneficiary. Creditors will not be able to reach these trust assets unless they meet certain stringent conditions.

WITH FLEXIBLE AND HIGHLY-REGARDED TRUST LEGISLATION, GUERNSEY:

- Attracts business from leading families around the world
- Offers many of the advantages of US jurisdictions such as Delaware, without the complexity of the US tax code
- Maintains considerable autonomy over its internal affairs. It is a British Crown Dependency and not part of the United Kingdom or European Union

WELL REGULATED

Guernsey is not a secrecy jurisdiction, as evidenced by its more than 60 tax information exchange agreements with other countries – including 16 of the G20 nations. On the contrary, it has been designated a "white-listed jurisdiction" by the Organisation for Economic Co-operation and Development (OECD), reflecting its high standards for international finance and strict regulatory oversight by the Guernsey Financial Services Commission. Guernsey's popularity stems from its internationally compliant environment, effective regulation of the fiduciary industry, tax neutrality and highly effective body of trust, foundation and company law.

Like a number of offshore jurisdictions and a significant number of US states, Guernsey is a jurisdiction in which you can establish a self-settled trust for your own benefit, with a legitimate goal of protecting the trust assets from creditor claims. A Guernsey court may set aside a transfer to a trust that is fraudulent related to existing creditors, but not so for *future* creditors whose claims rise after the transfer of assets to a trust. Thus, a Guernsey trust beneficiary who remains solvent after creating a self-settled trust, taking into account all his or her existing creditors, should find a properly drafted trust highly resistant to the claims of future creditors seeking to reach the trust assets to satisfy their claims.

PERPETUAL DURATION

Historically, trusts in the United Kingdom and the United States could last only a few generations and not indefinitely, after which the trustee would have to distribute trust assets to the remaining beneficiaries. However, Guernsey does not have rules limiting the duration of a trust, so a Guernsey trust can exist in perpetuity.

Family assets transferred to a "dynasty" or perpetual Guernsey trust will remain subject to the trustee's management and discretion – and any directions contained in the trust deed – until if and when the trust is terminated. With a Guernsey trust, whatever benefits you intend – keeping family wealth safe from creditor and spousal claims, protecting assets for infirm or profligate beneficiaries, allowing pooling of assets for investment opportunities, maintaining a family business or simply keeping a family fortune intact – those benefits can remain in force as long as you desire. Moreover, if a Guernsey trust creates a tax advantage by ring fencing assets from subsequent beneficiaries' taxable estates, the longer duration of a Guernsey trust can only enhance the tax benefit.

LEVEL OF DISCRETION

The vast majority of Guernsey trusts give the trustee flexibility to address changing circumstances that might not have been contemplated at the time of the trust's creation. Given the breadth of a trustee's discretion you may be concerned the trustee will not always act in the best interests of a particular beneficiary or your beneficiaries as a whole. To minimise such concerns, you can influence a trustee's discretion through a number of mechanisms:

- A letter of wishes expressing your intent
- Protector committees with authority to consent to, or veto, trustee decisions
- Powers held in reserve by the settlor
- Limits on trustee powers to dispose of certain assets
- Co-trustees and advisers with supervisory powers over the trustee
- Power to replace the trustee vested in a trust protector

A trust is a legally binding agreement created by an asset owner who entrusts some or all of his or her assets to an individual person or organisation (trustee) to manage the assets for the benefit of another (beneficiary). A trust can:

- Manage your wishes in a sophisticated way – for example, ensuring education for your children, but restricting access to capital until later in life
- Promote charitable giving as a one-time or an annual gift
- Protect those who may be unable to manage their own affairs such as children, the aged or individuals in poor health
- Preserve family assets for future generations

PROTECTION FROM FORCED HEIRSHIP

In the United States and the United Kingdom, where trust law evolved out of English common law, trusts are a common and often essential element of estate planning among high-net-worth individuals and their advisers. But in the rest of the world, many countries restrict a deceased person's right to control the ultimate disposition of assets at death. In place for centuries, traditional family laws have been imposing mandatory inheritance schemes in most of the world's nations.

For individuals subject to forced heirship rules, Guernsey law offers an opportunity to have complete control over the disposition of their assets during their lifetime and upon their death. Guernsey law does not recognise a court's jurisdiction outside Guernsey if the judgment or order is inconsistent with Guernsey's trust law. An heir who arrives in Guernsey with a claim at odds with the trust deed will likely find an unreceptive arbiter in the Royal Court.

TAX NEUTRALITY

As a tax-neutral jurisdiction, Guernsey does not impose income tax on trusts for non-resident beneficiaries as long as the trust income was not sourced in Guernsey – thereby avoiding multiple layers of taxation. For example, a Guernsey trust that generates income from US securities will likely be subject to US income taxation, but will not pay a second tax to Guernsey.

Guernsey does not impose any other tax on trust assets to offset the lack of taxes on trust income. There is no estate, gift, inheritance or capital gains tax in Guernsey, and no transfer taxes or duties payable when assets are transferred into a trust. In Guer0nsey's tax-neutral environment, you may have an opportunity to restructure your wealth without the payment of income or transfer taxes that might otherwise apply. The results of any such tax planning will depend on your residence and domicile and should involve your legal and tax advisers.

LEARN MORE

Northern Trust's dedicated fiduciary services team — supported by our local presence in Guernsey — consults with global families, family offices and their advisers on a variety of strategies and solutions for addressing their complex investment, reporting and planning needs. For more information, please consult your relationship manager.

Civil law nations such as France, Italy, Spain, Germany and most Latin American nations favour inheritance schemes that benefit children, especially male children, over a surviving spouse, collateral relatives and strangers. The civil law inheritance regime is premised on the idea that wealth should remain within family bloodlines.

Shari´ah law, which applies to the world's Sunni Muslims including majority populations in Saudi Arabia, Egypt, United Arab Emirates, Turkey and Indonesia, has developed complex rules for dividing property among a decedent's heirs. The Qur'an does not permit individuals to vary the inheritance rules, which are designed to avoid potential conflicts within a family.

northerntrust.com

Q59577 (1/17)