



# The Trust Settlement

## What is a Trust Settlement, and what is its purpose?

A trust settlement involves a written agreement among one or more settlors and one or more trustees. The settlor undertakes to transfer assets (trust property) to the trustee and the trustee undertakes to manage and use the trust property in accordance with the provisions of the trust deed for the benefit of one or more third parties (beneficiaries). The trust property is not legally independent and the trust settlement is therefore not a legal person.

The common law trust served as model for the trust settlement, but the trust settlement has certain specific characteristics. A trust settlement is not subject to the rule against perpetuities, for example.

### The trust settlement may be used for the following:

- Succession planning
- Safeguarding and maintaining assets for generations (asset protection)
- Providing care and support to family members or other persons
- Public benefit
- Holding and managing participating interests
- International tax planning

## How is a Trust Settlement created?

A trust settlement may be established during the lifetime or on the death of the settlor. During lifetime, a trust settlement is formed by means of a written agreement between the settlor and the trustee. The trust relationship may also be based on a unilateral legal act of the settlor made in writing or on the death of the settlor in a last will or testament. Any trust settlement established by unilateral declaration requires a written declaration of acceptance from the trustee.

## What purposes may a Trust Settlement pursue?

A trust settlement may be established for various purposes. Members of one or more families may be provided with support or the companies held by the trust settlement may be maintained and promoted. In addition, public-benefit purposes may be pursued.

## Are Trust Settlements registered in the commercial register?

Any trust relationships which are entered into with a trustee with place of residence or registered office in Liechtenstein and which are established for a period of more than 12 months must be registered for entry in the commercial register within 12 months following the establishment of the trust relationship.

Alternatively, an original or a certified copy of the deed establishing the trust relationship may be deposited with the commercial register without any entry being made in the commercial register.

## Who are the parties involved in the Trust Settlement?

A settlor may be one or more natural or legal persons who place any parts of their assets in the trust of a trustee. By means of a transfer of assets to the trustee, the relative assets are segregated from the assets of the settlor and are thereafter managed and used by one or more trustees who may be natural or legal persons.

Other parties involved are the beneficiaries. A beneficiary is the person who receives any current or future benefit from the trust settlement, whether as a share of the trust property, or income from it, or both. Primarily, beneficiaries are divided into entitled beneficiaries and discretionary beneficiaries. Entitled beneficiaries receive a legal claim to a benefit from the trust property that is specified or specifiable in terms of time and amount. In contrast, discretionary beneficiaries do not have any enforceable claim to a beneficial interest. Rather, the decision about the choice of beneficiaries, the time and/or amount of the beneficial interest is at the discretion of the trustee or another party involved.

Another party involved in the trust relationship may be a protectorate. It consists of one or more protectors who the settlor considers trusted third parties. Depending on the wishes of the settlor, the protectors may supervise the trustee and/or be available to the trustee for advice and/or amend the trust deed and/or decide as to the management and/or use of the trust property.

## What documents does the Trust Settlement have, and what is regulated in them?

The trust deed contains the provisions governing the trust relationship. The trust property originally contributed and the beneficiaries are described in the trust deed or in a schedule to the trust deed. Alternatively, the beneficiaries may be described in a separate document (By-Laws, Regulations).

The settlor is free to compose a letter of wishes in which he sets out his wishes with respect to the decisions of the trustee. This is basically not binding. However, the will of the settlor laid down in the letter of wishes is to be taken into consideration in any decision-making by the trustee.



## What assets may be transferred?

Movable and/or immovable property and/or rights, including equity participations, may serve as trust property. There is no minimum assets requirement.

The assets are transferred to the trustee because the trust settlement does not have any legal personality. The trustee is under an obligation to manage and use the assets in line with the purpose of the trust settlement. Additional trust property may be transferred at any time.

## What rights and obligations does the trustee have?

The trustee is required to follow the provisions of the trust deed and the law, as well as to safeguard and manage the trust property. The trustee has the sole power of management and disposal of the trust property. The trustee is required to hold the transferred assets separately from his/its own assets in such a manner that these assets are identifiable by his/its personal creditors as being financially distinct third-party assets. In the case of any insolvency of the trustee or any execution in relation to his/its assets, the trust property is to be segregated by law and is therefore protected against access to it by creditors of the trustee.

The trust settlement is independent from the party who is the trustee, i.e. in the event of his/its departure as trustee, the trust settlement is not terminated and another trustee may be appointed.

## What rights does the settlor have?

Subject to the mandatory statutory provisions, the settlor is free to alter the terms of the trust relationship in the trust deed. He may, in particular, reserve the right to revoke the trust settlement or amend the provisions of the trust relationship.

## How long does the Trust Settlement exist?

Trust settlements may be established for a fixed or indefinite period. The period of the trust settlement is, in contrast to the common law trust, not limited (no rule against perpetuities).

## When is the Trust Settlement terminated?

Any fixed-period trust relationship will exist until the reason for termination specified in the trust deed occurs. If the settlor reserved the right to revoke the trust settlement, the trust relationship will terminate as a result of the revocation. The trust relationship will be terminated by law if the trust property is destroyed.

## How is the Trust Settlement taxed?

The trust settlement is subject to the minimum income tax in the amount of CHF 1,800.00 p.a. This tax is payable regardless of the amount of the trust property or the income of the trust property.

The transfer of assets to the trustee and distributions from the trust settlement are exempt from taxation in Liechtenstein, but they may trigger tax consequences abroad.

## What reporting obligations are there?

Since 2017, Liechtenstein has exchanged tax information, as part of the automatic exchange of information (AEOI), with numerous countries about persons who are taxable in these countries.

In case of trust settlements whose settlors reserved the right to exert influence over the trust relationship, in general the total assets of the trust settlement will be reported in the state of residence of the settlor. If the settlor did not reserve any such rights, a report will be made with no indication of the assets of the trust settlement.

In case of entitled beneficiaries, the assets attributable to them and the value of any distributions will be reported in the state of residence of the entitled beneficiary. Reporting is only made in case of discretionary beneficiaries for the years in which they actually received distributions, and in this case, with the value of the respective distributions.

If the trust relationship has one or more protectors who are able to exert an influence over the trust settlement, the total assets of the trust settlement will be reported in the state of residence of the protector(s). If there is no such right to exert an influence, no report will be made.

This document is for information purposes only. It is not intended for persons subject to a jurisdiction that prohibits them from receiving documents of this type, and does not constitute a promotion, recommendation, offer or any other advisory service. Kaiser Partner excludes all liability for the contents or for any loss or damage whatsoever that may result from the use of this document, irrespective of the form it may take.

**Kaiser Partner Trust Services Anstalt** | Pflugstrasse 10 | P.O. Box 1157 | 9490 Vaduz | Liechtenstein  
☎ +423 236 58 00 | ✉ trust@kaiserpartner.com | 🌐 www.kaiserpartner.com

kaiser.partner