

Chapter 1 : Documentary New Zealand Trust - Wikipedia

Note: Citations are based on reference standards. However, formatting rules can vary widely between applications and fields of interest or study. The specific requirements or preferences of your reviewing publisher, classroom teacher, institution or organization should be applied.

No tax on the transfer of assets Corporate Details of a New Zealand Foreign Trust Anonymity, Confidentiality and Disclosure A NZFT has minimal reporting requirements, although if a trust carries out business activities, it must keep a financial record, though it need not be submitted. Trust deeds are confidential documents and are not publicly registered. The financial records are not filed with the New Zealand authorities. A properly NZ trust is generally regarded as being unbreakable, with NZ trust law comparable to known asset protection jurisdictions like the Cook Islands. The minimal number of individuals needed to establish a trust is two, though often a more complex arrangement is used. Settlor A settlor is the individual forming the trust and whose assets are to be transferred into the trust. Once the deed has been signed and the trust created the settlor does not have legal control over the assets within the trust as it is now managed by the trustee for the intended beneficiary , though the settlor can make himself the beneficiary. The settlor may also act as a co-trustee or protector, which gives the settlor among other powers, a degree of control over management of the trust, to appoint trustees, and the ability to amend the terms of the trust or distribute assets. Beneficiaries The beneficiaries are the individuals entitled to the assets held by the trust. The settlor may be named as the sole beneficiaries or one among several other beneficiaries. Beneficiary amendments, rights, and benefits are usually specified within the trust deed. Protector The use of a protector is used as a measure of protection and security for any possible problems that might arise and as a potential counterbalance to the broad powers had by a trustee. The protector is not a mandatory role, though the settlor can appoint himself or use a trusted individual attorney, professional, family member in which consent must be given for certain actions made by the trustee. Trustee A trustee holds the legal title to the trust and is responsible for the overall management, whose powers are solely used for the benefit of the beneficiaries. A trustee may play many different roles and can take on any number of responsibilities under discretion of the settlor, usually outlined within the trust deed. A settlor may choose to have a separation of powers in which different parties may take up different roles. The above-mentioned provisions enable the settlor a greater flexibility in establishing a management structure giving a variety of different arrangements to augment the exclusive control a foreign trustee providing a complete system of oversight and checks and balance to ensure proper asset management. The financial records are not filed to the Register and are not public. Business Restrictions There are no restrictions. A NZFT may engage in any business activities provided that is lawful. NZ Trust law is modelled off on UK trust legislation Exchange Controls There are no exchange controls on foreign-exchange transactions that take place in NZ, regardless of whether residents or non-residents undertake the transactions. Registered Office required No. Certain records need to be held by the resident trustee in NZ including: Copy of the trust deed Details outlining the settlements by the trust Details of the distributions made by the trust Names and addresses of the settlors and beneficiaries A record of the assets and liabilities and all sums of money received and sent by the trust If the NZFT carries out business activities then the documents held by the NZ trust company must include, in addition: The NZ government policy encourages the self-regulation of the industry. You may also want to visit the following pages for additional options and more info:

Chapter 2 : New Zealand Trusts

The New Zealand Green Bike Trust is a Charitable Trust located at Trash Palace, Broken Hill Road, Po.

New Zealand is definitely off any lists of tax havens, but its tax law and international reputation provide for enormous opportunities for your your business, including but not limiting to trading operations, investments, banking and asset protection. New Zealand Facts and Benefits New Zealand is a first world highly developed country, with high living standards, low crime and stable political system. Its legislation is based on the Common English Law. Being a member of the O. New Zealand domestic law and its wide network of double tax treaties offer vast opportunities to legally reduce your business tax burden with no connotations of using tax haven instruments. It is not subject to official registration to be recognized and have binding effect in New Zealand. It also has a trans-national effect being recognized by the Hague Convention on the Recognition of Trusts. In practice, you can either arrange for a trust agreement with a qualified New Zealand Trustee, or register your own New Zealand Trustee company. The New Zealand Trustee Company conducts any offshore activity, including trading and owning the property, on behalf of its own name but in favor of the beneficiary. All offshore income of the Trust is tax exempt in New Zealand. Non-resident beneficiaries of the Trust are only subject to tax with the part of income that has New Zealand sources. NZ Foreign Trust can be used for international operations in any business. It is cost-effective in setup and maintenance. New Zealand has no image of blacklisted tax haven and is not oppressed by other first world countries. In this regard, all day-to-day operations of the Trust should be arranged the way for the company not to be recognized a permanent establishment in a country imposing high taxes. Another attractive feature is that NZ Foreign Trust may claim the benefits of 35 double tax treaties with the following countries: Current policy of New Zealand authorities comprises that the company is resident for taxes where its effective practical day-to-day management is conducted, rather than where its overriding control is located. If the Trust qualifies for these provisions, you can count on reduced withholding tax rates for dividends, interests and royalties in the DTT country and no further taxation of this income in New Zealand. Every double tax agreement needs interpretation by a local lawyer. The balance of its earnings is tax-free as it belongs to the principal, an offshore company. This structure works similar to a UK Agency Company. A similar structure exists in many other countries. It must have at least one limited partner and one general partner. There is no requirement to have resident partners. Provided all limited partners are non-residents, and all income is generated offshore, the partnership is not subject to tax in New Zealand. Striking a balance, New Zealand is a very attractive jurisdiction for international business, offering you an excellent international image, and providing for exclusively beneficial tax regime at the same time. How can Offshore Advisor help you today?

How to Cite. Hayward, D. (), Shared Trust in New Zealand: Strategies for a Small Industrial Country. New Zealand Geographer, doi: /j

New Zealand is not a tax haven, yet trusts established in New Zealand are increasingly important international tax planning vehicles. Some of the most successful offshore tax planning vehicles have been in fact "on-shore" in tax paying jurisdictions - the UK non-resident company, the Delaware corporation, the UK limited partnership, the Irish non-resident company, the Singapore company, and the US LLC to name a few. Add to this worthy collection the New Zealand offshore trust. What is it about on-shore zero tax entities that makes them so useful? The appeal is obvious - all the cosmetic advantages of appearing to be a tax paying entity, with no "tax haven" taint, with the additional bonus of paying little or no tax. Recent OECD moves against tax havens have not affected most on-shore tax effective structures. The New Zealand offshore trust allows assets to be owned and managed by a company in a reputable, relatively high tax-paying jurisdiction, with a significant network of tax treaties, but without tax. New Zealand is a sovereign state in the South Pacific. In addition to political stability, it enjoys economic prosperity. New Zealand has a developed legal system, with respect for the rule of law, an independent judiciary, and a substantially statutory system of law. The New Zealand "offshore" trust is a misnomer. The "New Zealand foreign trust" is in fact a New Zealand trust, which usually has although need not have a New Zealand trustee, and may have but need not have New Zealand resident beneficiaries. The trust is an integral part of the legal system of New Zealand, as it is with most jurisdictions deriving their legal system from the common law and equity. However New Zealand has developed its own approach to the taxation of trusts, based not on the residence of the trustee or of the beneficiary, but on the source of the trust funds - that is, taxation based on the residence of the settlor. This provides tax planning opportunities. Since the New Zealand tax legislation has specifically codified the New Zealand "offshore" trust - a New Zealand trust often with New Zealand resident trustees, settled by a settlor or settlors none of who is resident in New Zealand. Taxation Treatment The New Zealand offshore trust is not subject to New Zealand tax, except on income with a New Zealand source - even though the trustees are tax residents of New Zealand, and even if some or all of the beneficiaries are New Zealand resident. For beneficiaries of a New Zealand offshore trust the New Zealand tax rules are also interesting. A trust beneficiary who is not resident in New Zealand will only be taxed on income with a New Zealand source, and will not be taxed on capital profits or gains even those with a New Zealand source. Foreign income and all capital gains can be distributed free of New Zealand tax - free of tax on the trustee, free of tax on the beneficiary. Income with a New Zealand source will be subject to normal New Zealand income tax rules, including any protection from income tax that double tax treaties may provide. Capital gains, wherever their source, are not subject to New Zealand tax. The same rules would also apply to a trust established under New Zealand law but which does not have New Zealand resident trustees, or has some resident and some non-resident trustees, provided no settlor was resident in New Zealand. As the taxation status depends on the residence of the settlor or settlors, a New Zealand resident including a beneficiary may be a trustee of the trust without prejudicing the tax status. New Zealand offshore trusts, which are "foreign trusts" in terms of the New Zealand legislation, are not specifically deemed to be non-resident in the legislation. Residence of the trust has no meaning in the Income Tax Act - the residence of the settlor or settlors is the determining factor as to whether the trust is a foreign trust or not. It even has a treaty with Finland. This raises the interesting possibility of a New Zealand offshore trust being a resident of New Zealand for the purposes of a double taxation treaty, with the protection this brings, and yet not being subject to tax in New Zealand. Provided the trust documentation is drafted with this aspect in mind and depending on the treaty, it is possible that the New Zealand trust can receive income from a treaty partner country and avail itself of the advantages of the treaty for example reduced withholding tax, no source country tax on business income without a permanent establishment, etc. The advantages of a New Zealand offshore trust are as follows: The New Zealand offshore trust may be of interest in a number of situations: The concept of the New Zealand offshore trust can be

applied to a trading trust. A New Zealand company can be established to hold an investment or carry out a business or trade. If the company is acting as the trustee of a New Zealand offshore trust, it will not be subject to tax in New Zealand except on New Zealand source income and yet it will for all intents and purposes including tax treaties be a normal New Zealand company. A New Zealand company can also be formed to be a private trust company dedicated trust company, owned by or on behalf of the clients. The company can then be the trustee of one or more trusts whether under New Zealand law or the law of another jurisdiction such as Ireland, and whether offshore or on-shore trusts. Each jurisdiction has its disadvantages. What are those of New Zealand, in the context of offshore trust? In particular, could the legislation be changed to close this "loophole"? It should also be noted that the New Zealand offshore trust does not depend on a loophole. The taxation of such trusts is a specific and apparently deliberate codification of the legal position prior to the amendment of the trust taxation regime, and is entirely consistent with New Zealand general taxation principles and law. However by the use of co-trustees based in such countries as the Cook Island, and of course by careful structuring of the holding of assets for example using the trust to hold share in a Western Samoan international business company it is possible to retain creditor protection advantages of New Zealand offshore trusts. The judicious use of an underlying company to hold assets, or at least sensitive assets, would preserve absolute confidentiality. The New Zealand offshore trust is a useful tool for international tax planning, providing a tax free vehicle in a stable, reputable jurisdiction. It also has asset protection and pre- and post-immigration advantages for intending immigrants into New Zealand. The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Chapter 4 : New Zealand Trust Company - Forbes Hare

Big thanks to Men's Health Trust New Zealand for coming in to NRC this morning and talking to some of our members about their health.. It was an awesome session and addressed many of the issues surrounding Men's Health that don't get talked about enough.

These leaked documents exposed secret asset shifting and tax avoidance which affected almost every country in the world, including New Zealand. Caught up in it were some rich and famous individuals who were involved in a range of financial transactions, seemingly for the sole purpose of concealment of assets and income. The ICIJ posted copies of the documents on its website, inviting each of the affected countries to instigate their own action in response. The leaked documents revealed a wall of secrecy created by the legal firm Mossack Fonseca to ensure that the assets and income of their clients were hidden from tax authorities, spouses and creditors alike. A worldwide search for assets by lawyers acting for disgruntled spouses quickly emerged. The fallout from the exposure of the names of the high profile, high net worth individuals involved in hiding their assets has been significant and will not be fully realised for some time to come. Implications for NZ At present it is unclear as to the real number of affected entities having a New Zealand origin. While some reports suggest that details of 12, foreign trusts have been published, this figure does not include the number of foreign trusts that have likely been created overseas by legal firms using a New Zealand trustee to create hundreds or even thousands of separate trusts. The number of New Zealand registered companies being used as trustees of foreign trusts is unlikely to be within the present knowledge of the New Zealand Inland Revenue Department IRD as there is no present requirement for registration of foreign trusts in New Zealand. The New Zealand Government moved quickly in response and immediately appointed John Shewan to head a Government Inquiry into the adequacy of the present Foreign Trust Disclosure Rules and to make appropriate recommendations. The Shewan Report has been tabled in Parliament and I will incorporate some of its relevant findings, but a full analysis of the report is for a later time. A simple example illustrates how a typical New Zealand foreign trust might be used by Mossack Fonseca. A Botswana businessman Mr X creates a New Zealand foreign trust to effectively hide wealth from his spouse, creditors and Botswana tax authorities through advice received from a Panamanian law firm. The Panamanian firm advises Mr X that with the use of a New Zealand foreign trust his assets and any income derived thereon would be exempt from both New Zealand and Panamanian tax. Mr X would be assured that the creation of a New Zealand foreign trust would give him complete confidentiality in relation to the ownership of his assets and that he will be free to access his wealth in the trust without fear of exposure except perhaps from a whistleblower. The trustee may or may not later remain a resident in New Zealand for tax purposes. Mr X also becomes the Appointor, Protector or Guardian of the trust and a listed beneficiary in the trust along with other members of his family. None of the family members are aware of the existence of the trust or even that they are beneficiaries. Apart from paying for the purchase of an NZ company to act as trustee, Mr X has had no connection with New Zealand at all. Mr X is the non-resident settlor of the foreign trust. The introductory provisions set out in Section HC1 of the Tax Act state, among other things, that Subpart HC determines who is a settlor and sets out their income tax liability; provides for the taxation of distributions from trusts and defines beneficiary income and a taxable distribution; and provides for the taxation of trustee income if relevant. Section HC 25 is headed: As Mr X is clearly non-resident at all times in the income year, the foreign sourced income derived by the New Zealand resident trustee is exempt income. Indeed, the creation of the New Zealand foreign trust is settled on the basis of achieving complete confidentiality of the assets and income of Mr X. Further, a non-resident trust in Panama is not subject to tax or to any reporting requirements. While s 59 of the Tax Administration Act does require disclosure of information by the resident trustee of a foreign trust on its creation, the Shewan Report found that the present reporting requirements are inadequate, as: The Shewan Report made recommendations to the Government and the Government has foreshadowed the introduction of legislation adopting all of those recommendations as soon as possible that the disclosure requirements on registration be expanded from the present IR disclosure requirements to, among other things, seek more information about the trust structure.

The question is whether overseas law firms would still contravene New Zealand trust tax laws by not disclosing information on the creation of a foreign trust after the introduction of the more stringent reporting requirements, and whether IRD could prosecute such non-disclosure. In this regard it must be remembered that a New Zealand company purchased by a Panamanian law firm is only appointed as a trustee of a discretionary trust once offshore. A trustee can certainly be prosecuted for non-disclosure of information required. Section A of the Tax Administration Act imposes a penalty on all, including settlors and trustees, who knowingly do not provide information about a foreign trust under s 59A of the Act. These provisions do not appear to have been used to specifically prosecute a trustee for failing to make a proper disclosure under the present disclosure reporting requirement for a foreign trust. Mr X or Mossack Fonseca in the example may be able to be prosecuted in New Zealand but the difficulty will be in enforcing any judgment obtained. However, once the new foreign trust disclosure law amendments are enacted, Panamanian legal firms will, in my opinion, be more likely to seek fresh fields to maintain the much sought after confidentiality desired by their clients, particularly now that Panama has decided to sign the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters and join the fight against worldwide tax avoidance. Edward Power is a barrister who specialises in tax law. He practises in both New Zealand, from Barristers. Comm, and in Australia. Last updated on the 8th September

Chapter 5 : New Zealand, foreign trusts and the Panama papers - NZ Law Society

Download Citation on ResearchGate | On Apr 1, , David Hayward and others published Shared Trust in New Zealand: Strategies for a Small Industrial Country }.

The schemes are worth considering when you have land but could afford to wait to receive the land price in the future, including a share in the capital growth! In this article we look at some of the key features of shared equity schemes.

Split Ownership In any scheme there is an element of split ownership. This means that the home owner and scheme provider each own a specified percentage share of the property from the date of purchase. The home owner and their family then have the right to occupy the property subject to the terms of the Property Sharing Agreement.

Maintenance In order to maintain the value of the property the Property Sharing Agreement will specify who is responsible for maintaining the property, usually split between general maintenance and improvements.

General Maintenance The obligation to maintain the property to a good standard usually falls on the home owner. The home owner is also required to keep the garden tidy, regularly prune trees, hedges and shrubs often to specified maximum heights and maintain an irrigation system. The home owner is also obliged to insure the property, pay the premiums and ensure that they do not do anything to negate the insurance.

Improvements The home owner is required to obtain the prior written consent of the scheme provider in respect of any general improvements they wish to make to the property at their own cost. The scheme provider can withhold its consent at its discretion. If the home owner does proceed with improvements, with the scheme owners consent, then the works must be completed in a reasonable time, to a professional and tradesman-like standard compiling with all regulations including obtaining a Code Compliance Certificate, if required. The scheme provider must be provided with all relevant documentation and the home owner also indemnifies the scheme provider if carrying out the improvements causes any losses.

The Bank will have a mortgage registered against the entire property to secure the home owners borrowing. The home owner will disclose its maximum bank loan amount in the scheme documentation and will not be permitted to go above that amount without the scheme providers consent, including redrawing. The Bank will also be permitted to disclose information relating to the home owners borrowing to the scheme provider.

Home owner selling The structure of the shared equity scheme also needs to provide for the situation where the home owner either wants to sell and move on or is forced to do so for example the end of a relationship. The scheme will provide that there is a period in which the home owner cannot offer their share of the property for sale e. This is often referred to as a standstill period. If the home owner wishes to exit the property after the standstill period then the Property Sharing Agreement would normally provide for:

Scheme Provider has first option to buy The home owner must first offer their share to the scheme provider and the appointment of a valuer is agreed to ascertain a current market value. The home owner can decide if they wish to sell their share at the current market value and the scheme provider can also decide if they wish to acquire the share at that value.

Sale on the open market If the scheme provider does not elect to purchase the home owners share at the valuation then the property can be sold on the open market to an independent third party. However, the scheme provider must approve the terms of the sale and has another opportunity to purchase the property based on the offer from the third party.

Home owners buying scheme providers share The home owner will also have the option to buy the scheme providers share or part in the property. A similar process to the sale to the scheme provider will be followed with the value determined by an independent valuer.

Capital Growth It is important to realise that on any sale of the property or scheme providers share then the scheme provider will receive market value for their share based on valuation at the time rather than based on initial contributions. If following the review, the scheme provider determines that the home owner is financially stable, with their Banks support, the scheme provider can require the home owner to buy out the scheme providers share. This will free up scheme providers funds to assist other potential home owners in need. It will also be a feature of the shared equity scheme that on the expiry of a certain period, for example ten years, the home owner will be required to buy out the scheme providers share. This is to ensure that the assistance offered by the scheme is for a finite period and gain by the equity will continue to be rolled over to assist new prospective home

owners. The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Chapter 6 : Shared equity schemes - how do they work? - Finance and Banking - New Zealand

New Zealand has a growing presence as an international trust jurisdiction and Forbes Hare Trust Company is well placed to assist with New Zealand structures. Our New Zealand office is headed by Lorraine Bartlett, an experienced private client and trusts lawyer.

Chapter 7 : Types of trusts (Trusts and estates)

Introduction New Zealand Foreign Trust. Trusts are very common in New Zealand and are used for a variety of purposes. A trust which is resident in New Zealand and which meets the New Zealand Income Tax Act definition of a 'foreign trust' is not taxed in New Zealand on income it earns outside of New Zealand.

Chapter 8 : New Zealand Foreign Trusts Formations | Quick Overview Chart | Benefits

The family trust. Trusts are becoming an increasingly popular way of protecting property and managing assets. This guide deals with one particular type of trust - the family trust - but much of the information will also apply to other types of trusts.

Chapter 9 : New Zealand Fruitgrowers Charitable Trust Â» Horticulture New Zealand

The New Zealand offshore trust is not subject to New Zealand tax, except on income with a New Zealand source - even though the trustees are tax residents of New Zealand, and even if some or all of the beneficiaries are New Zealand resident.