

BVI VISTA Trusts

BVI VISTA Trusts have the unique advantage of eliminating conflicts between trustees and the directors of underlying companies.

Trustees are duty bound to monitor the activities of any company comprised in the trust fund and the actions of its directors. However, where the trust fund specifically consists of, or includes a controlling interest in a family company, the imposition of the “prudent man of business” rule raises significant obstacles for both trustees and a settlor to overcome.

Professional trustees are unlikely to be the best people to run an active business, where an understanding of the market and an ability to react quickly are essential. Trustees also have to take into account liability issues where they may be held responsible for not maximising the asset value of the trust fund.

BVI VISTA (Virgin Islands Special Trusts Act) Trusts provide a solution to these drawbacks.

The trustee of a BVI VISTA Trust is not obliged to intervene, diversify, monitor and take management responsibilities for the underlying company, thereby eliminating the requirements of the “prudent man of business” rule.

The key conditions of a BVI VISTA Trusts are:

- A BVI VISTA Trust must only hold shares (“designated shares”) in a BVI company/companies although assets below the BVI company can be based elsewhere
- The trustee’s duty to retain the designated shares has precedence over any duty to preserve or enhance their value. The trustee is not liable for the consequences of holding the shares
- At least one of the trustees must be a BVI licenced trust corporation or qualify as a BVI Private Trust Company. ILS World holds a full trust licence
- The trustee cannot be a director of the underlying BVI company or intervene in the management of the company except in order to resolve specific problems and then only in a prescribed number of circumstances, which need to be outlined in the Trust Deed
- The trustee cannot appoint directors of their own choosing therefore reducing their ability to influence the management of the company except in accordance with the terms laid down by the trust deed
- The trustee has no fiduciary duty in relation to the affairs of the company unless there is an “intervention call”.

Practical uses of BVI VISTA Trusts:

Asset protection without relinquishing control – BVI VISTA Trusts allow individuals to take advantage of the classic benefits of a trust vehicle, such as effective succession planning and holding assets in a confidential manner, without having to give up effective control of the assets held in a BVI company.



Family Wealth Planning – BVI VISTA Trusts are particularly beneficial where the underlying assets to be held by a BVI company are of significance and are important to the family. This may apply to family heirlooms or shares in long established, family companies.

Risk Management - Where the assets or asset classes held by the BVI company in trust are viewed as risky or unconventional, a BVI VISTA Trust can provide comfort to trustees by altering their fiduciary responsibility and duty of care in relation to the BVI company shares. This can also be an invaluable tool for a settlor who does not wish to have trust assets diversified and desires to be free to speculate in ventures which would generally be regarded as inappropriate by trustees of a traditional trust.

Commercial Purposes – More sophisticated applications of a BVI VISTA Trust include trusts for commercial purposes such as holding voting shares of mutual funds, special purpose vehicles and other structured finance vehicles.

Strategic Planning - A BVI trust which combines a purpose trust (i.e. a trust for non-charitable purposes) and a BVI VISTA Trust is considered an ideal holding vehicle for certain strategic assets, such as holding shares in a Private Trust Company.

Matrimonial Settlements – BVI VISTA Trusts serve to protect the family business from being exploited by an ex-spouse or their family, as the settlor is able to retain absolute control over the company without any danger of interference.

How ILS World can help:

- Planning the use of a BVI VISTA Trust
- Structuring and establishment of a BVI VISTA Trust
- Establishing related corporate structures
- Preparation of a BVI VISTA Trust instrument and associated documentation
- Act as trustee of a BVI VISTA Trust
- Trust and company administration
- Accounting and bookkeeping.

For further information on BVI VISTA Trusts please contact Gemma Davies at gemma.davies@ils.world

Please note: ILS World does not offer tax advice and would therefore recommend you obtain your own tax advice. If you require an introduction to a tax adviser we would be happy to assist.

