

TRUST FORMATION IN PANAMA

ABOGADOS-ATTORNEYS AT LAW



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PANAMA TRUST

The Law regulating Trusts in the Republic of Panama (Law 1 of 1984) is very versatile, pursuant to an evolving financial and offshore services sector geared to the needs of its clients.

The main effects and characteristics of interest when considering a Trust created in Panama are the following:

Protection.

- The assets constitute a separate estate. They are not part of the trustee's own patrimony, hence they are not to be subjected to precautionary measures (attachments or executions), except in case of obligations or damages caused as a result of acts related to the trust.
- Creating a trust and endowing it with specific assets, may potentially safeguard the assets from local marital or inheritance regulations to which the settlor may be subject to in accordance with his laws of nationality or domicile.
- The trust could also confront the settlor's national law when this imposes forced successions or a legal attack filed by a potential heir.
- Or safeguard assets from disputes and claims brought by creditors.

Disclosure.

- The Panamanian law imposes very strict confidentiality rules. Except for real estate located in Panamanian territory, there is no public registration of the trust instrument.

Control.

- Title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee.

The beneficiary may be the settlor.

The trustee has all the acts and rights inherent to ownership, that is, as if he were the owner, and therefore, he has the power and the duty to manage, employ or dispose of the assets in accordance with the terms of the trust deed and he is accountable in respect of the above.

Flexibility.

- The Panama trust may cover present or future assets of any nature.
- It allows for the greatest freedom of choice since it may be established "for whatever purposes which do not contravene morality, laws or public policy".
- It may be created to have effect before the death ("inter vivos") or after the death ("mortis causal") of the settlor.
- The Panama trust may be revocable or irrevocable. When a trust is revocable, the trustee as well as the beneficiary or beneficiaries may be substituted by others, at any time. In the opposite case they can be substituted only in the manner described in the trust deeds.

Tax efficiency.

- Panama trusts are 100% tax exempt.
- Neither the constitution, amendment nor termination of the trust, nor the transfer of the trust assets shall occur tax liabilities, provided however, that such assets are:
 1. Located abroad, or
 2. Deriving from foreign sources, or are
 3. Shares or securities of any kind, issued by institutions whose revenues are not derived from taxable Panamanian sources, even if such shares or securities are deposited in the Republic of Panama. This exemption also applies to
 4. Monies deriving from foreign sources, even if they are deposited in Panama

