

HONG KONG TRUSTS

GENERAL INFORMATION

Hong Kong has a modern and competitive trust law on par with the standards of other major trust jurisdictions such as UK, Singapore and offshore financial centres in Europe and the Caribbean.

The licencing regime will see Mann Made Trustees (Hong Kong) be able to offer a jurisdictionally cohesive trust structure for private clients, corporate entities and as part of integrated estate planning measures adopted for US and AUS clients as well as other geographically and economically nomadic and multi-centred families and individuals.

KEY FEATURES

Reserved Powers of the Settlor

Settlors of a Hong Kong trust are able to reserve the power of investment and management of the trust assets to themselves. For example this allows the settlor of a private business to retain greater control over the company and trust assets and manage them in the manner that they deem fit.

Power to appoint agents, custodians and nominees

A trustee may appoint (i) agents to perform most of their functions including the investment of trust assets; (ii) nominees in relation to any of the trust assets; (iii) custodians for the safe custody of trust assets or title documents. The appointees must be professionals or a company controlled by the trustee. Upon appointment of the agent, nominee or custodian, the trustee must keep the arrangement under review, and if necessary, exercise his power of intervention (by giving directions and revoking the appointment) unless such application is inconsistent with the terms of the trust instrument.

Investments: In most cases the trust deed would specify the assets and investments of the trust. In the absence of a provision in the trust deed, a trustee shall make investment decisions in accordance with the range of authorized investments in Schedule 2 to the Trustee Ordinance.

Perpetuity Period of Trust

With the new amendments a Hong Kong trust can last indefinitely. This is particularly useful when planning for multiple generations ahead. The establishment of perpetual trusts is not possible in most major common law jurisdictions.

Forced Heirship Protection

The forced heirship rules of a foreign jurisdiction will not affect the validity of any settlements of any movable assets into a Hong Kong trust made by settlors during their lifetime. This means that settlors from jurisdictions that prescribe forced heirship rules can now have peace of mind that the trust will benefit their chosen beneficiaries and will disregard any person who would otherwise benefit from their estate under domestic forced heirship rules of their jurisdiction of residence or citizenship. This provision benefits mostly settlors from civil law jurisdictions and asserts that assets in the trust cannot be clawed back by their heirs against their wishes.

Zero Tax

Hong Kong trusts will generally not be subject to tax in Hong Kong. Under Hong Kong's territorial tax system, income derived by the trust from assets outside Hong Kong will not be taxable to the trustee, the trust entity or the beneficiaries. Hong Kong is in this regard not different from other zero tax jurisdictions:

Hong Kong's tax system allows a resident Hong Kong trust which owns assets outside of Hong Kong to remit income and profits from those assets to the trust in Hong Kong without such income being taxable in Hong Kong.

No dividend tax. Hong Kong's single tier tax regime does not tax income from the distribution of dividends in Hong Kong. Dividends which are sourced outside of Hong Kong are not taxable.

No withholding tax. Distributions to beneficiaries from a Hong Kong trust out of income earned either in Hong Kong or outside Hong Kong are not taxable in Hong Kong in the hands of the beneficiaries whether the beneficiaries are in Hong Kong or overseas.

There is no gift duty in Hong Kong. Gifts of property in Hong Kong or the forgiveness of a debt attract no gift duty.

No capital gains tax. A Hong Kong trust selling property or other assets at a substantial profit is not subject to tax in Hong Kong.

Single Jurisdiction, Governance and Administration

It is a great advantage to have the trust, trustee, banking and investment, legal and accounting services all based in the same jurisdiction and subject to the same law.

CONTACT US

For more information concerning the services we can provide and our costs, please contact Edward Gumbley, director of Mann Made Hong Kong Limited as follows:

Telephone: + 852 2815 0080
Mobile: + 852 9535 8434
Email: edward.gumbley@mannmadegroup.com
Website: www.mannmadegroup.com

THE MANN MADE GROUP

Mann Made Hong Kong Limited is part of the Mann Made Group of companies and has offices in the Isle of Man, United Kingdom, Hong Kong and Malta and is an international group providing corporate and trust structuring and services worldwide. Should you be interested in the services we can provide please visit our website or contact us as follows:

London office

Telephone: +44 (0)20 7100 6799
Email: london@mannmadegroup.com

Italian office

Telephone: +39 366 1116 538
Email: italy@mannmadegroup.com

Isle of Man office

Telephone: +44 (0)1624 682100
Email: iom@mannmadegroup.com

Hong Kong office

Telephone: +852 2815 0080
Email: hongkong@mannmadegroup.com

Malta office

Telephone: +356 2761 1127
Email: malta@mannmadegroup.com

Cyprus office

Telephone: +357 26822 122
Email: cyprus@mannmadegroup.com