



Trust Services

P.O. Box 450, Main Street
Charlestown, Nevis

Tel: 1-869-469-0080
Fax: 1-869-469-5798

Email: info@bonitsinc.com
Web: bonitsinc.com

OVERVIEW

A Trust is an instrument that imposes a binding obligation on the Trustees to hold the legal title of a property/asset for the benefit to the beneficiaries.

In order to create a valid trust, the settlor or owner of the property/assets must lawfully transfer the property to the Trustee for the beneficiaries.

There are three certainties that must exist for an equitable obligation to become enforceable upon the Trustee:

1. Certainty of Intention

It must be clearly stated in the trust instrument that the settlor intends to create a Trust and to transfer his ownership of the property as a Trust Fund to the Trustees and the beneficiaries respectively.

2. Certainty of Subject

There must be a clear distinction as to what properties that would form part of the Corpus.

3. Certainty of Objects

Certainty must be established as to who are the beneficiaries of the Trust.

In the absence of one or two of the above certainties a trust would be deemed as invalid.

Nevis International Exempt Trust Ordinance

Nevis International Exempt Trust Ordinance first came into force in 1994 and has been revised in subsequent years to reflect current business practices, to enhance the

attractiveness of Nevis as an offshore jurisdiction and to demonstrate integrity and commitment of the country's offshore Trust market.

The Nevis International Exempt Trust Ordinance governs the establishment and operation of international trust and is a unification of the progressive international trust legislation of various jurisdictions, combined with innovative provisions to form a totally distinctive product. When combined with a Nevis Business Company Ordinance (NBCO) users can create powerful asset protection vehicles.

The Trust Ordinance provides for the creation of charitable, non-charitable trust, spend-thrift or protective and qualifying foreign trusts. It also includes special provisions tailored to make Nevis a preferred jurisdiction for the establishment or asset protection trusts (APTs).

Spendthrift Trust – a spendthrift trust also called a Protective trust is designed for beneficiaries who are considered likely to invade the trust assets to pay for their debts and outline the terms that characterizes them. These terms can make beneficiaries interest become:

1. Subject to termination
2. Impose restrictions on the beneficiary dealing in all or part of their income or future rights to the trust property
3. Provide a reduction of termination if a beneficiary becomes insolvent or exposed to seizure of property for the benefit of creditors

The property of an International Spendthrift Trust is held at the Trustees discretion (discretionary trust) unless specified otherwise in the trust deed for the following:

1. It is used to generate income for a beneficiary until the beneficiary interest terminates or the beneficiary authorizes the trust income to be paid to a third party
2. If the payment of a third party is ordered, the Trustee is given absolute discretion to disregard the request and to pay the trust income to the beneficiary and the beneficiary's spouse and children
3. Or in the event the beneficiary does not have a wife or child to the beneficiary
4. Or his successor as defined under Nevis law of intestate and succession.

In the event the above occurs, a life tenant of a trust property agrees, the beneficiaries may obtain rescheduling of benefits and may allow the creation of a series of protective trusts, useful for assuring that the beneficiaries behave in accordance with the settlor wishes.

Charitable Trust – is a trust that is created for a charitable purpose. A Charitable purpose is defined as being:

1. For the relief of poverty
2. Advancement of education
3. Protection of the environment
4. Advancement of human rights and fundamental freedom
5. Other purposes that are considered beneficial to the community

Under the Nevis International Exempt Trust Ordinance Charitable Trust are allowed to have a period of more than one hundred years from the date of commencement unless specified by the trust deed.

Non-Charitable Trust – A Non-Charitable Trust is also called a Purpose Trust. The purpose of the trust must be specific, reasonable, capable of fulfillment and not immoral, unlawful or contrary to public policy.

The Nevis International Exempt Trust Ordinance requires Non-Charitable Trust to have a Protector. If the trust has no protector, The Minister of Finance will appoint a protector. The law of perpetuity is applied for a purpose trust.

Proper Law of a Trust – It is the governing law of the trust expressed in the trust deed. Under Nevis International Exempt Trust Ordinance, the settlor has the option to choose which jurisdiction he/she wishes to adopt as the proper law.