The Republic of South Africa (RSA) has been enjoying rapid growth and recent changes to exchange controls in the RSA have made forming an offshore trust much more attractive and cost-effective. Annually, married South African couples can transfer up to R8 million offshore (an individual can transfer up to R4 million), which provides for enough capital to justify the offshore administration costs.

Furthermore, a loan with a limit of R1 million per individual per year may be transferred by an individual to persons residing outside of the RSA. The preferred solution is to "lend" the funds to the offshore trustees and charge them reasonable market-related interest. This helps to better structure the donations tax but tax does need to paid on the interest earned and may also be subject to capital gains tax when the repayment of the loan is made as there are foreign exchange gains arising at that time.

Trusts

Trusts are legal agreements which can be used as a formal tool for planning investments and many high net worth individuals accomplish certain financial objectives with emphasis on tax, succession/estate planning, confidentiality and asset protection.

The parties to an offshore trust are generally the settlor, trustees and beneficiaries. The settlor is the person wishing to form the trust. The trustee is responsible for its administration and the beneficiaries, who are of a discretionary nature, normally consist of the settlor’s family members.

Mauritius Trusts as a useful tool for South Africans

A typical offshore trust structure is set up as follows:
- A Mauritius trust holding a bank account for portfolio investment;
- A Mauritius trust holding shares in a Mauritius Global Business company which invests in property, gold and commodities.

Many high net worth families around the world hold listed and/or unlisted investments through the above-mentioned structures, which allows for succession planning by avoiding forced heirship provision.

Reasons for using a Mauritius Trust

- There are no currency exchange controls in Mauritius and investments through Mauritius are not subject to CFC rules, thin capitalization and transfer pricing regulations;
- There is no capital gains tax, donations tax or, inheritance tax in Mauritius;
- The trust can elect to be non-resident in Mauritius and thus shall be exempt from tax in Mauritius;
- Access to a wide range of international investments otherwise inaccessible from the RSA and the opportunity to take advantage of the existing treaty benefits;
- By taking advantage of the offshore allowance of R4 million on a yearly basis and loaning out to the trust, the assets are held and controlled outside of the RSA, providing security against political instability;
- The lender is only taxed when he receives interest on the sum loaned to the trust or when there is a distribution of the trust’s assets back to a beneficiary in the RSA;
- Trust assets would fall outside of the estate of the Settlor, which minimises or eliminates estate taxes arising on the death of the Settlor; and
- Mauritius is based in the GMT+4 time zone so same day service is available, and this is coupled with the fact that we have an office in Pretoria.

Amicorp (Mauritius) Limited is licensed by the Financial Services Commission of Mauritius to provide company, fund and trust set up services as well as management/administration services including providing directorship, corporate secretarial, qualified trusteeship, registered office, bookkeeping, accounting and any and all related administrative services.

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