



S&A

C. SAVVA & ASSOCIATES LTD

Trust and fiduciary services



Immigrating to Canada

Canada is the first choice for immigration around the world. Its cultural diversity, economic and social leadership and liberal open minded policies towards immigration, provide newcomers to Canada with one of the highest qualities of life in the world.

Over 250,000 people from around the world immigrate to Canada every year.

When choosing to immigrate to Canada an individual has many matters to address. These matters range from immigration status, to finding a suitable employment and a home, and ensuring finances are in order and in accordance with Canadian laws.

Once a newcomer becomes a resident of Canada, they are responsible to report taxable income earned on worldwide assets. This taxable income is then taxed in Canada at one of the highest income tax rates in the world.

As a result, many newcomers to Canada are interested in legitimate tax planning opportunities which can reduce their Canadian tax burden, and allow for an easier financial transition into Canada.

The Canadian government has put in place favorable tax laws for immigrants to Canada that allow them to use an international trust to reduce their tax burden.

Many immigrants to Canada are often not aware of these beneficial tax laws, and do not effectively use them in their immigration planning process.





How a trust works

The various types of trust vary in complexity but they have some basic common characteristics. A "person" being either an individual or a company ("the trustee") agrees to hold certain assets ("the trust fund") in its name for the benefit of another person ("the beneficiary") on certain terms and with certain powers (which are usually set out in the Trust Deed).

The assets comprising the trust fund are legally held and registered as owned by the trustee, and the trustee is under a duty, enforceable in the Courts, to hold those assets and the income arising from them for the benefit of the beneficiary(ies).

The other important parties of the trust are the person that creates the trust ("the settlor"), and the person(s) that have the power to restrict key powers of the trustee ("the protector").

Use of an international trust

An international trust is one that resides outside of Canada, usually in a trust friendly jurisdiction.

Canadian tax law allows for an individual immigrating to Canada to establish an international trust whereby the newcomer can transfer some or all of their assets into the trust, and for the first 60 months of residency in Canada earn income on those assets which is exempt from Canadian tax. These provisions in Canadian tax law are commonly referred to as "tax holiday" rules.

The use of an international trust has other benefits as well. These can include the following:

- Effective family succession and estate planning;
- Asset protection and privacy;
- Centralization of asset ownership and management;
- Minimization of probate and estate administration costs and delays.

Appropriate jurisdictions for an international trust

In selecting the appropriate jurisdiction for the international trust to reside, a newcomer to Canada should consider a jurisdiction that offers the following:

- Cost effective trust formation and qualified trustee service providers;
- Favorable trust tax laws and international double taxation treaties;
- Adequate legal framework and existence of specific trust law;
- Political and economic stability;
- Healthy business environment;
- No exchange controls;
- Adequate transportation facilities and language.



Why Cyprus can be the ideal jurisdiction for an international trust

In recent years, Cyprus has emerged as a leader among global financial centers. The use of the Cyprus International Trust ("CIT") has been growing and is quickly becoming a preferred option to trust and estate planning professionals around the world. Cyprus is emerging as a leader for international trust formation and administration as a result of the following:

- International Trusts Law of 1992 is based on UK equity principles;
- Full member of the European Union since 2004, contributing to an already stable economic, political and business environment;
- Income, gains and profits earned by a CIT are exempt from all taxes in Cyprus including income tax, capital gains tax and any special contribution tax;
- There is no estate duty or inheritance tax in Cyprus;
- Cyprus has no exchange control regulations;
- There are no Cypriot CIT reporting requirements;
- Cost effective trust jurisdiction, with easy access and no language barriers;
- Competent and experienced professionals to establish and administer the trust;
- The CIT can be discretionary in nature.

Structuring considerations

From a Cypriot tax and legal point of view, some basic principles must apply when structuring all CIT, and these include the following:

- The settlor is not a permanent resident of Cyprus;
- The beneficiary is likewise not a permanent resident (charitable institutions are an exception to this rule);
- The trust property does not include any immovable property in Cyprus;
- A minimum of one trustee is resident in Cyprus.

The Canadian structuring issues are more complex, and are briefly outlined below:

- Residence of the international trust must be outside of Canada.
This generally means that the majority of trustees are resident outside of Canada and that the non-resident trustees exert "Management and Control" over the trust assets;
- Income earned by the trust must be foreign sourced income.
If the income is generated from Canadian sources, it will be subject to Canadian tax;
- The beneficiaries of the immigration trust can include the immigrant and/or members of the immigrant's family. Where the settlor wishes to be a beneficiary, special attention must be given to Canadian attribution rules. Note that proposed changes to the Canadian Income Tax Act will exempt immigration trusts from these attribution rules;
- The 60 month tax free period commences on the day the immigrant becomes a Canadian resident for tax purposes;
- It is advisable that an immigrant establish the immigration trust prior to becoming a Canadian resident. The trust can still be established after residency, however, the assets transferred into the trust will be deemed to be disposed of on the day they are transferred, and capitals gains from the period between the residency date and transfer date could arise;
- If the immigrant's residency in Canada ends before the 60 month period, the trust will never become subject to Canadian tax;
- If the immigrant remains in Canada, prior to the expiration of the 60 month period, the trust may distribute its assets and wind-up, or migrate to Canada. This can simply be done by having a Canadian resident trustee replace the non-resident trustee.

Savva
& Associates
(S&A)



S&A are leaders in the areas of trust formation and administration. Being Canadian professionals, we have extensive experience in working with newcomers to Canada to establish, structure, and administer immigration trusts.

We have forged strategic alliances with some of Canada's leading immigration lawyers, and as such are well positioned to provide high level advice on this important tax planning opportunity.

While our firm's head office is located in Nicosia Cyprus, the principals and directors are Canadian citizens. We conduct our business at the highest level of international standards, the Canadian way.

We aim to provide newcomers to Canada with a cost effective immigration trust structure that provides them with the full benefits afforded to them under Canadian tax laws.



Please contact us if you would like to know more about this opportunity

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