



THE GCSL GROUP OF COMPANIES LIMITED

Guide to Belize Companies and Trusts

INTRODUCTION

Belize is an independent country found in Central America, just south of Mexico in the Yucatan Peninsula. The time zone is Central USA Time. A former British Colony, the legal system of Belize is based on the British Common Law, with the court of final appeal being the UK Privy Council. The Belize Dollar is pegged to the US Dollar. Most offshore transactions are conducted in US Dollars.

Belize was previously known as British Honduras when it was governed by the United Kingdom. In 1981 Belize became an independent nation. The government headquarters are in Belmopan, the capital, although most of the economic activity occurs in Belize City. The country is well equipped with modern-day communications technology, as well as an English speaking labor force.

The Belize offshore industry commenced in 1990 when the Belize National Assembly introduced the International Business Companies Act (now known as Chapter 270 of the Laws of Belize, Revised Edition 2000, "the Act"). In 1992, they introduced the Trusts Act, which repealed the older Act of 1923 and brought into existence in Belize what are known as asset protection trusts. In 2007 there were some further amendments.

BELIZE INTERNATIONAL BUSINESS COMPANIES (IBC)

The IBC Act provides all the necessary features for incorporation of an IBC and allows for a great deal of flexibility in administration. The Act maintains strict confidentiality provisions and the statutory records of the IBC Registry are not available for general public search.

INCORPORATION

To incorporate an IBC, the original and two copies of the Memorandum and Articles of Association are filed with the Registrar as well as any fees. The Registrar will then issue a Certificate of Incorporation that is automatically annually renewed on payment of the prescribed fee.

Once GCSL's due diligence requirements are met, company order form completed and fees paid, incorporation can be completed within 24 hours. Shelf IBC's that have already been incorporated are also available on request.

STATUTORY PROVISIONS

Shares and Share Capital

There are no minimum share capital requirements (although most persons opt for the standard 50,000 shares) and the shares need not have a par value. An IBC may finance the purchase and repurchase of its own shares. Fully paid registered shares may be exchanged as bearer shares transferable by delivery. Shares can be redeemed and share capital reduced, without needing a court order. Shares need not be restricted to one currency.

Share Registers

IBC's must maintain registers of shareholders and directors at the registered office. However, there is no requirement to file the registers with the Registrar.

Registered Office/Registered Agent

Each IBC must have a registered office that is required to be the principal office of a registered agent. Only licensed practitioners such as GCSL can provide this service.

Directors and Company Secretary

An IBC must have at least one director and there is no residency requirement. Directors may be corporations or natural persons. There is no requirement for a company secretary.

Hong Kong Anguilla Belize Cook Islands Samoa Shanghai Singapore



Shareholders' Meetings

An Annual General Meeting need not be held but it is advisable that one be held and the minutes filed within 30 days of the meeting.

Books, Records and Common Seal

An IBC must keep a minute book with accurate recordings of all general and directors' meetings. An IBC need not have a common seal, but if it does then an impression of which must be kept at the registered office. There is no requirement for annual returns or audits but an IBC must keep and maintain proper accounts.

Registration of Charges

Registration of a charge at the Registrar is optional but when the charge remains unregistered with respect to any security on the IBC's property, the charge shall be unenforceable against a creditor or liquidator.

Redomiciliation

IBC's can migrate into and out of Belize.

Annual Fees

Every IBC must pay an annual fee to the Belize government. The renewal date is the 1st day of January of every year. If it fails to pay on that date the result is the immediate placement in the category of IBCs not in good standing. If the fees are still outstanding on the 31st day of December, then they will be struck off.

Strike-off and Restoration

If an IBC is no longer required, it can be wound up by voluntary liquidation provided it is solvent. The Registrar may remove an IBC from the Register if its registration has not been renewed due to failure of payment of government fees and the Registrar in some circumstances may remove an IBC from the Register prior to the expiry of its registration. If an IBC is struck-off from the Register then in certain circumstances it may be reinstated.

Tax Exemptions

IBC's are exempt from Belize corporate, stamp duty, income, withholding, capital gains, dividends or distribution taxes.

BELIZE TRUSTS

The Trusts Act 1992 ("The Act") provides for the creation and recognition of trusts under Belize law. For a trust to make use of the legislation in Belize it must meet the criteria to be termed an "exempt trust". To qualify under this definition, the trust property of the trust must not include any immovable property within Belize and the settlor and beneficiaries cannot be resident within Belize. The trust may have a connection with Belize through a Belize trustee company. The maximum period of a Belize trust is 120 years.

CREATION

International Trusts are created primarily for the purposes of Asset Protection, and MUST be reduced into an instrument in writing, or they will not be afforded the protections allowed International Trusts under the Trusts Act. Once the intentions of the settlor are clearly manifested in writing, the formalities or technical expression are not of the greatest importance, although it is always best to seek the input of legal counsel when preparing such a legal document. Usually a Trust Deed is drafted and used as the basis of the trust.

STATUTORY PROVISIONS

Charitable and Purpose Trusts

Specific provision is made for the settlement of charitable trusts as long as the charitable purpose is for the relief of poverty, advancement of education, religion, environment, human rights or for community benefit. General purpose trusts are allowed where the purpose is specific, reasonable, capable of fulfillment, not immoral, unlawful or contrary to public policy and the terms of the trust provide for the appointment of a protector who will enforce the trust.



Registration of Trusts

It is now mandatory that a trust be registered in Belize. A separate International Trusts Registry has been established in the capital city of Belmopan, and there either the Trustee or the Trust Agent can make application to the Registry for the (now mandatory) registration of the trust. Privacy being an issue, the Trust Deed is not submitted for the purpose of the registration. The only information requested is the name of the trust, the names of the trustees, the name of the Protector, just general data, but excluding any reference to the beneficiaries. Usually the trust is registered within 4 working days of the application being submitted.

Exclusion of Foreign Judgments

Foreign judgments are not enforceable against a trust. Under Belize law, the claimant must commence new proceedings in Belize and be subject to Belize law thus involving extra inconvenience and cost. A trust governed by Belize law or disposition of property held by the trust will not be void, liable to be set aside or defective by reason that the laws of any foreign jurisdiction prohibit or do not recognize the concept of a trust or that the laws of Belize are inconsistent with any foreign law.

Common Law Position

The Act modifies the common law rules relating to the rules against: accumulations, perpetuities, double possibilities, restricting the extent of charitable purposes and purpose trusts.

Revocation

A trust will be deemed to be irrevocable unless it has an express power of revocation.

Settlors and Beneficiaries

Any settlor may also be a beneficiary, trustee and protector. A settlor must have capacity under Belize law to own and transfer property. Beneficiaries shall be identifiable by name or ascertainable by reference to a relationship to some person or description of a class. Any settlor or beneficiary cannot be Belize resident at any time of the trust's duration.

Settlor Control and Benefit

A trust is not invalid or disposition void or affected in any way if the settlor retains or acquires: a power of revocation; a power to amend the deed; a power of disposition over trust property or any interest in the trust property.

Letter or Memorandum of Wishes

The settlor has the option of filing with the trustee a letter or memorandum of his/her wishes. A beneficiary also has this option but regardless the trustee is not bound to follow any letter or memorandum of wishes and will not be accountable for failure or refusal to follow any requests contained in any letter or memorandum.

Heirship Rights

In the case of a disinherited heir, he/she is expressly excluded from bring a cause of action in relation to the trust on the basis that it interferes with his/her right to succeed to assets or property.

Spendthrift Trusts

A trust through a spendthrift clause can provide that any interest in property granted to a beneficiary for life or for a lesser period shall not be alienated or pass from the trust by bankruptcy or alternatively be taken in execution by process of law. A creditor cannot gain access to the interest as the beneficiary does not have control over it.

Fraud

The only Court that can declare a trust invalid is the Supreme Court of Belize, or any higher court of appeal. They do have the power to set aside a trust if it can be proved that the trust has been the product or fruit of fraudulent activity, or misrepresentation, or duress or mistake, but even then the action must be commenced in the courts of Belize, as foreign judgments will NOT be recognised or enforced in relation to registered International Trusts.

Bankruptcy

In the event of a settlor's bankruptcy, a trust is not void or voidable notwithstanding any law of the settlor's domicile or place of residence and that the trust is voluntary, without valuable consideration and made for the benefit of the settlor, their spouse or children.



Termination of Marriage

A Belize or any other court may not vary or set aside or recognize the validity of a claim against trust property in respect of the personal and proprietary consequences of marriage or the termination of marriage.

Succession or Probate

A Belize or any other court may not vary or set aside or recognize the validity of a claim against trust property in respect of the personal or proprietary consequences of probate, be it testate or intestate.

Trust Agent

There must be a trust agent, very much in the same manner in which IBCs have to have a registered agent. For service of process on the trust, or having an official office in relation to the trust, the trust agent at his address serve that purpose.

Trustees

A settlor, beneficiary or protector may also be a trustee. The minimum number of trustees is one. Trustee duties are specifically outlined by a schedule in the Act.

Trustee Powers

Trustee powers are determined in the trust deed and the Act. The Act contains a list of authorised investments into which the trustees may invest the trust's funds but the trust deed may provide the trustees with wider investment powers.

Protector of a Trust

The office of protector is provided for under the Act. The protector's primary function is to ensure the interests of the beneficiaries are preserved, even if contrary to the wishes of the trustee. The protector is a powerful position as often they can appoint a new or remove an existing trustee.

Confidentiality

As mentioned before, under Registration of Trusts, the bare minimum of information for the simple task of keeping a numerical account of all International Trusts settled under Belize law is required, so that the government of Belize does not interfere in the business of the client, or the affairs of the Trust Company offering its service. Confidentiality is thus preserved, and disclosure can only occur on court order, which only occurs at the end of a trial.

Guarantee Against Compulsory Acquisition

The Belize government guarantees that there will be no compulsory acquisition or expropriation of trust property unless in accordance with the due process of law.

Exemption from Taxes

Trusts are completely tax free in Belize as long as the settlor or any of the beneficiaries are not resident in Belize and the trust property does not include any immovable property situated in Belize.

Governing Law

A term of a trust selecting Belize law to govern the trust is valid, effective and conclusive regardless of any other circumstances.

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