



**CURAÇÃO
TRUSTS**

TRUSTMOORE

INTRODUCTION

Curaçao is the first (and only) country in the Kingdom of the Netherlands to have its own trust regime. The “trust fund”, as it is known, is an instrument based on the Anglo-Saxon tradition of common law. It is therefore not easy reconcilable with countries where legislation is based on civil law. A few “civil law” countries have a trust regime in place; however, none has legislation based on the Dutch Civil Code, as Curaçao does. In fact, it was the first to enact trust law with principles based on the Dutch Civil Code.



We are a highly effective, innovative and client-driven corporate-services provider with a proven track record of excellence.

CURAÇAO TRUSTS IN PERSPECTIVE

The Curaçao trust shares many similarities with both Anglo-American trusts and Curaçao private foundations (Stichting Particulier Fonds). None have capital divided into shares, and in principle, both Curaçao trusts and Curaçao private foundations are exempt from local profit tax. Both can be used for the same purposes. Similar to the contribution of a founder's assets to a private foundation, the settlor (the creator of the trust) transfers the ownership of assets and/or rights to the trust.

A Curaçao trust is created by a notarial (trust) deed, whereas the involvement of a notary is not required when creating an Anglo-American trust. The trust deed must state: the beneficiary(ies), the trustee (the party that will have legal ownership of settlor assets), the trust assets, the trust name, and assurance that there will

always be one Curaçao-based trustee. The trust deed can appoint a protector, which can either be a legal entity or a natural person.

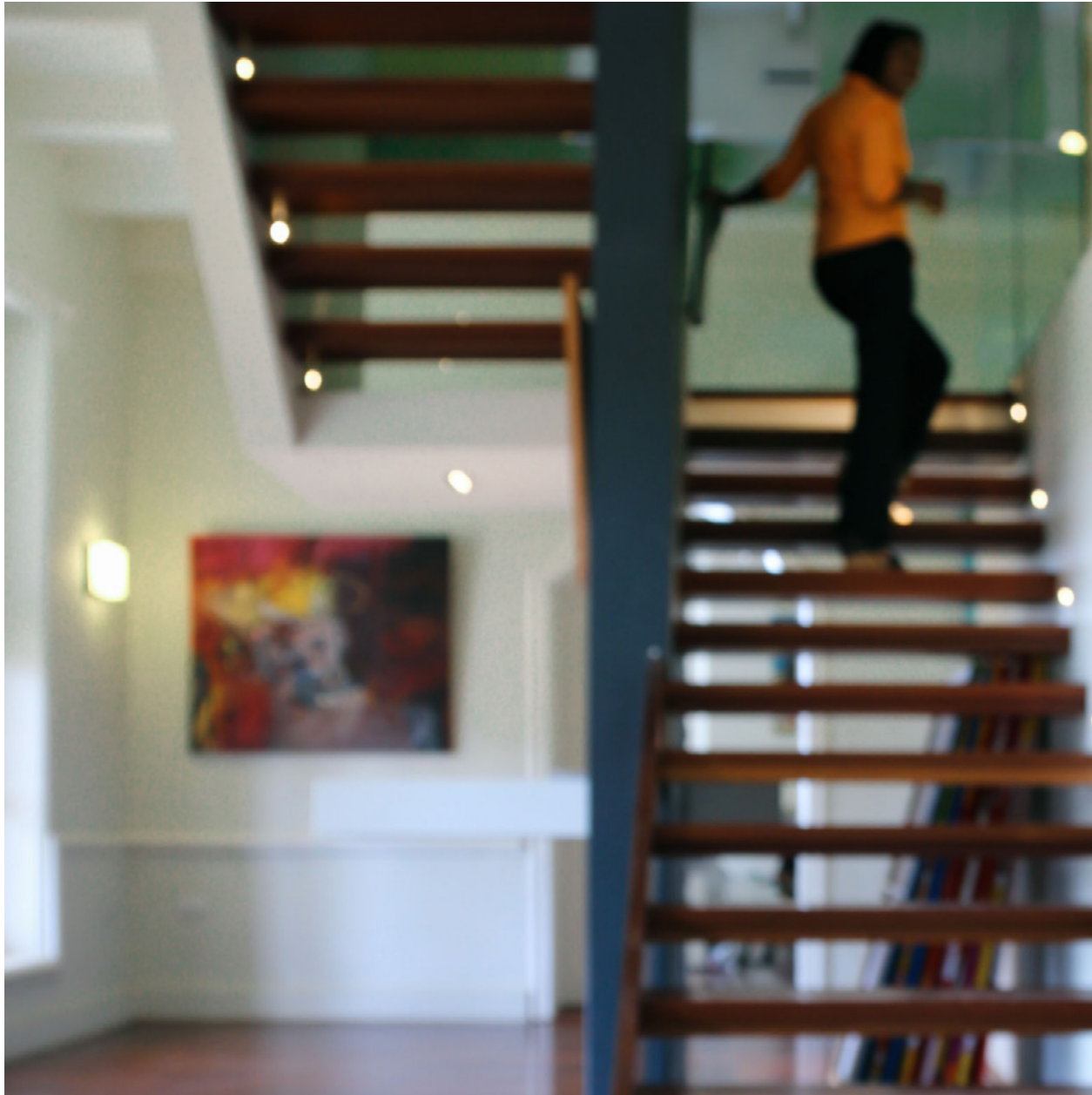
Although there are many similarities between trusts and private foundations some significant differences between the two exist. Unlike a private foundation, a trust does not have legal personality. It is an agreement between relevant parties, whereas a private foundation is itself a legal entity. When incorporating a private foundation, a founder can retain considerable control (by recording this in the articles of incorporation). The settlor of a trust (usually) relinquishes control of a trust, as it is typically irrevocable. While both a private foundation and a trust "receive" assets from their founder/settlor, there is a major difference in ownership. A foundation becomes the legal and economic

owner of contributed assets, whereas a trust becomes the legal owner and its beneficiary usually becomes the economic owner.

As legal ownership of assets is transferred to the trustee, that party becomes the owner of the settlor-contributed assets. Importantly, the assets in the trust are not part of other trust equity the trustee may have, nor his personal capital (unlike an Anglo-Saxon trust). The trustee – a natural person, or a legal entity – becomes the fiduciary owner of contributed assets. However, the trustee must reside or have a registered address in Curaçao. Multiple trustees can be appointed. Should this be the case, at least one trustee must be based in Curaçao. It is also possible for a beneficiary to assume the role of trustee, although the sole beneficiary can never be the sole trustee. A trustee is obliged

to manage the trust in line with the law and provisions in the trust deed. This also means the trustee is responsible for administration and bookkeeping.





ADDITIONAL ADVANTAGES

Just as a private foundation and Anglo-American trust, a Curaçao trust offers fiscal advantages. As long as the trust is not considered to be “conducting an enterprise”, it is exempt from Curaçao profit tax. If the trust is used for investing and managing funds, for example, any profit realized is fully tax exempt. Distributions to foreign beneficiaries are also exempt from all taxes in Curaçao.

A Curaçao trust can also be used for many purposes: as a top holding vehicle for international structure such as a business or investment trust; in financing and securitization transactions; to set up a protected cell company; to “store” intellectual property, art, or real estate. In all these instances, any profits realized by the Curaçao trust are fully tax exempt.

A more-classic use of a Curaçao trust is estate planning. The trust deed provides the full framework of trustee rights and obligations and how assets should be handled. The settlor can decide in detail when, how and to whom the assets should be distributed. It is also possible to appoint a protector, who will advise and supervise the trustee.

A Curaçao trust also benefits from the fact that Curaçao is part of the Kingdom of the Netherlands; therefore, the Dutch Supreme Court in The Hague has ultimate jurisdiction over any legal disputes that may arise in Curaçao.

HOW WE CAN ASSIST

Setting up and maintaining a Curaçao trust, in good standing and in compliance with the laws of Curaçao, requires an expert approach to preparing the trust deed, registration, management, and corporate secretarial and financial tasks, but above all, it demands a keen eye for service and client needs. With extensive experience, we offer the ideal approach for

total care of client business interests as a reliable member of the client team. We are a highly effective, innovative and client-driven corporate-services provider with a proven track record of excellence. In addition to Curaçao, we have offices in the Netherlands, Luxembourg, Singapore, Malta, Gibraltar, Hong Kong, England and Ireland.



CONTACT US TODAY



Marjet Rozema

Marjet.Rozema@trustmoore.com



Stefanie Knoester

Stefanie.Knoester@trustmoore.com

Trustmoore (Curaçao) N.V.
Landhuis Groot Kwartier
Groot Kwartierweg 12, Willemstad, Curaçao
+5999 7471401



For further information,
please visit
www.trustmoore.com