

Offshore trusts, foundations and companies: how Switzerland treats them

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Many international families hold their wealth through trusts, foundations or companies in Jersey, Guernsey, Liechtenstein, the Cook Islands, the British Virgin Islands or other offshore centres, while the banks, trustees and asset managers who administer these structures are often in Switzerland. Switzerland recognises foreign trusts, taxes them according to clear rules and applies the international exchange of information to them. Families who hold or plan such a structure, or who move to Switzerland while one exists, should know how these rules work together.

1 Why structures abroad

Swiss law does not provide for the creation of trusts, and the Swiss family foundation may only be used for limited purposes such as the education and support of family members (Article 335 of the Civil Code). Families who want a flexible vehicle to hold assets across generations therefore often use trusts under the law of Jersey, Guernsey, England or the Cook Islands, or foundations under the law of Liechtenstein, and have them administered from Switzerland. Each jurisdiction has its own strengths: the long trust tradition of the Channel Islands, the civil law foundation of Liechtenstein, or the asset protection legislation of the Cook Islands.

2 Recognition under the Hague Trust Convention

Switzerland has applied the Hague Convention on the Law Applicable to Trusts and on their Recognition since 1 July 2007. A trust validly created under the law chosen by the settlor is recognised in Switzerland: the trust assets form a separate fund that does not belong to the trustee's personal estate, and the trustee can act as owner in Swiss proceedings and registers. Chapter 9a of the Private International Law Act (Articles 149a et seq.)

governs jurisdiction and the law applicable to trust disputes, as explained in the article on [trust and estate disputes](#).

3 Taxation for Swiss residents

Switzerland taxes trusts according to a circular of the Swiss Tax Conference of 2007, which distinguishes between types of trust. A revocable trust is transparent: its assets and income are attributed to the settlor. An irrevocable trust with fixed interests is attributed to the beneficiaries according to their entitlements. For an irrevocable discretionary trust, the decisive question is whether the settlor was resident in Switzerland when the trust was created. If he was, the trust is generally attributed to him. If he was not, the trust assets are not taxed in Switzerland, and distributions to beneficiaries resident in Switzerland are taxed as income, except to the extent that they consist of the capital originally contributed or of capital gains.

These rules make it possible to plan a move to Switzerland with an existing trust, but the structure and the trust deed should be reviewed before the move, not after it. Liechtenstein foundations are assessed in a similar way according to their actual control and the rights of the founder and beneficiaries.

4 Exchange of information and reporting

Trusts, foundations and companies administered by professional trustees or banks are covered by the automatic exchange of financial account information. The trustee or bank reports the settlor, the protector and the beneficiaries to the tax authorities of the states in which they are resident, as explained in the article on [automatic exchange of information](#). A structure that was set up to keep assets hidden no longer achieves that purpose, and undeclared assets should be regularised through a voluntary disclosure.

5 What Swiss banks and trustees expect

A Swiss bank that holds the assets of an offshore structure will ask for the trust deed or the foundation documents, the identity of the settlor or founder, the protector and the beneficiaries, and the source of the assets. Swiss trustees need a licence from FINMA and are supervised, as explained in the article on [wealth management under FinSA and FinIA](#). A structure that is well documented and correctly declared is readily accepted. Where an offshore company is not merely held but actually run from Switzerland,

it becomes a Swiss taxpayer; the article on [domiciliary companies and the BVI company with a Swiss address](#) explains the consequences.

6 How Ressos Legal helps

I advise families on setting up, reviewing and restructuring trusts, foundations and holding companies in Switzerland and abroad, on the Swiss tax treatment of existing structures before a move to Switzerland, and on the regularisation of undeclared structures. I am a Trust and Estate Practitioner (TEP). [Contact me](#) for a first conversation.

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