

Business Update:

The use of Isle of Man companies, trusts and partnerships in real estate investment

The Isle of Man is able to offer an unrivalled package to tax and property advisors looking for the best option for their real estate clients, including a flexible, modern corporate law, zero percent corporate taxes and expedited VAT registration.

The Isle of Man is well established as an international financial centre and enjoys particularly close and growing links with the emerging BRIC economies. It is increasingly becoming the jurisdiction of choice in relation to a wide variety of property investment structures, including property funds and property holding special purpose vehicles.

The main benefits of the Isle of Man

The benefits of using Isle of Man companies and partnerships include:

- the Isle of Man's favourable tax regime: a zero per cent tax rate for companies and no capital gains tax, inheritance tax, stamp duty (including on share transfers) or SDLT;
- the similarity of the underlying principles of the Isle of Man's law (including its new flexible and modern company law) to English law enables advisors to be comfortable dealing with Isle of Man companies, trusts and partnerships;
- direct access to the global capital markets: the Isle of Man is a leading listings jurisdiction of origin for international companies admitted to trading on the London Stock Exchange Alternative Investment Market (AIM), on the basis of both the number of companies incorporated and their combined market capitalisation;
- a dynamic and flexible regulatory regime for the establishment and operation of open-ended and closed-ended property funds;
- the availability of VAT registration on an expedited basis, allowing an Isle of Man company to VAT group with other Isle of Man companies and UK companies;
- the ability of an Isle of Man company to have its shares denominated in any currency;
- knowledgeable and expert professional advisers on the Isle of Man (lawyers, accountants and bankers) are able to service the needs of sophisticated investment entities and financial institutions; and

- the Isle of Man's first class reputation as a well regulated inter-national financial centre (reinforced by Moody's and Standard & Poor's "AAA" accreditation) within easy access of London, the United Kingdom and Europe.

Isle of Man companies

Persons electing to locate their investment vehicles in the Isle of Man have the choice of using a company incorporated under the Isle of Man Companies Act 2006 (a "New Manx Vehicle" or "NMV"). The NMV is the Manx corporate vehicle of choice for real estate investment. Since its introduction in November 2006, over 7000 NMVs have been incorporated.

The benefits of the NMV include:

- the ability to declare and pay dividends and make capital distributions (including distributions of assets in specie) subject only to meeting a statutory solvency test, allowing a streamlined return of capital to investors;
- the ability to purchase, redeem or otherwise acquire its own shares subject only to meeting the statutory solvency test;
- increased structuring and restructuring flexibility as no financial assistance prohibitions exist, shares may be issued with or without par value, there is no need to specify an authorised share capital and corporate directors are permitted;
- the ability to incorporate as a protected cell company (PCC), a guarantee company, a hybrid company or an unlimited company;
- less 'red tape': streamlined accounting and filing requirements and no need to hold annual general meetings;
- the ability to adopt pre-incorporation contracts; and
- simple merger, consolidation and transfer of domicile procedures.

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Isle of Man trusts

The law of trusts has developed in the Isle of Man largely in parallel to that in England, and Isle of Man trusts share their main characteristics with those widely existing in all common law jurisdictions.

Types of trust able to be established in the Isle of Man and which are commonly used in real estate investment include fixed interest trusts (including interest in possession trusts), discretionary trusts, bare trusts and unit trusts (including property unit trusts (PUTs)).

Where income is derived from property held by one person as nominee for another, or from property held by a trustee for another person who is absolutely entitled to that property as against the trustee, then the person or trustee, respectively, is not within the scope of Isle of Man tax in respect of that income.

Isle of Man partnerships

The Isle of Man also offers advisers and investors the choice of using either an Isle of Man general partnership or limited partnership.

As with trusts, the law of the Isle of Man concerning both general and limited partnerships has for many years mirrored that of England. The principal partnership legislation in the Isle of Man is the Partnership Act 1909, which is based on the United Kingdom's Partnership Act 1890 and Limited Partnership Act 1907.

A partnership may opt to have separate corporate identity and is tax transparent for Isle of Man tax purposes.

Cains

Cains is a leading Isle of Man law and professional services group. Its legal side is expert in advising clients in the fields of international financial services, commercial real estate structures, space and satellite, shipping and capital markets. The business acts for a broad range of clients including multi-national corporations, financial institutions,

regulatory bodies and family offices. Cains also has a strong track record of working in partnership with leading law firms to effect international transactions for clients, including market listings.

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Cains recent accolades include recognition as Offshore Law Firm of the Year by Legal Week (2007) and The Lawyer (2008) and it was awarded a Queen's Award for Excellence in International Trade in 2009. Cains has been shortlisted for Offshore Law Firm of the Year by Asian Legal Business (ALB), having been nominated for it every year since opening its office in Singapore.

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Please note that this guide is intended to provide an introduction to the Isle of Man and the possibilities that exist for establishing various types of structure in the jurisdiction. It seeks only to give the reader an overall view of the subject and is not a substitute for specific advice.

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