

Guernsey: Private Trust Companies and Private Trust Foundations

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Introduction

A client wishing to create a trust has to come to terms with the requirement to transfer legal ownership of assets to the trustee. In the context of offshore wealth planning, the trustee may be a service provider's professional trust company, likely to be operating in a foreign jurisdiction. If the client is concerned about taking this step, one solution may be the use of a private trust company (PTC). This is a corporate trustee established for the purpose of acting as trustee of a specific trust or trusts. It is often used as an integral part of the private wealth structuring for those seeking to establish a substantial and long-lasting structure for their family or family office. The board of directors can include family members, trusted advisors of the family and local professionals.

An alternative to a PTC is a private trust foundation (PTF), which uses just a foundation, rather than the more traditional PTC structure where a company is owned by a purpose trust (see more detail on this below under 'Ownership'). The fact that a PTF is naturally orphaned and can be simpler to administer can make it more attractive to some clients, as it does not need a purpose trust to sit above it.

Regulatory Requirements

Guernsey has strict regulatory requirements for the conduct of trust company business (including acting as trustee of a trust), but provided certain requirements are met, a PTC or PTF is able to operate in Guernsey exempt from the requirement to be registered to provide trust company business services with the Guernsey Financial Services Commission (GFSC).

The requirements for the exemption to apply are:

- the purpose of the PTC or PTF must be solely to provide trust company business services in respect of a specific trust or trusts (for example, trusts for the benefit of the members of one family);
- the PTC or PTF must not solicit from, or provide trust company business services to, the public;
- the administration of the PTC or PTF must be carried out by a person who is regulated by the GFSC to carry out trust company business; and
- the name of the PTC or PTF must be notified to the GFSC (this is normally done in the process of incorporation of the PTC or PTF).

The PTC is not required to apply its own anti-money laundering (AML)/combating financing of terrorism (CFT) procedures, appoint a money laundering reporting officer or money laundering compliance officer, or to register with the GFSC for AML/CFT purposes. Reliance is instead placed on the licenced fiduciary services business which provides administration services to the PTC to apply its AML/CFT procedures and, as a matter of general policy, the GFSC will apply a standard condition to this effect on the exempted PTC.

Administration

The board of directors of the PTC may be constituted by family members (or their trusted advisors) alone. This may be attractive to clients who wish to remain closely involved in their interests, perhaps where a family business is held in the trust. However, the presence of a professional who is experienced in trusts

and corporate governance on the board can be an advantage in complementing the knowledge of any family directors. In addition, some regulated trust company businesses will require, as a condition of agreeing to administer the PTC, that they have a representative appointed to the board.

Ownership

The simplest structure is for the client or members of the client's family to own the shares in the PTC and to hold them in their own names. This may, however, not be attractive to clients for a number of reasons, including taxation, confidentiality or asset protection. It also requires thought to be given as to the devolution of the shares in the PTC on the death of the owner and difficulties may also arise on incapacity.

A common alternative is for the shares of the PTC to be held on the terms of a non-charitable purpose trust, the sole purpose of which is to hold those shares and to provide a trustee to the relevant trusts. Alternatively, a Guernsey foundation could be used as the owner of the PTC.

An advantage of using a non-charitable purpose trust or foundation as shareholder is that the client has the comfort of knowing that the ownership of the PTC can be perpetual. This is particularly attractive to a client with dynastic ambitions for family wealth.

If a PTF is used there is no need for there to be a separate non-charitable purpose trust or foundation to hold the shares or other membership interests in the trustee entity. This is because a foundation does not need to have any shareholders or members.

We can advise on the suitability of a PTC or PTF and the pros and cons of different ownership structures.

Summaries in respect of PTCs

Type of entity	Private company
Licensing requirements	None (but see above)
Approval from GFSC	Yes, where acting by way of business
Annual filings	Yes (annual return and fee for the PTC)
External audit	No (unless constitutional documents require)
Guernsey taxation	Zero per cent income tax
Number of directors	Minimum of one
Number of shareholders	Minimum of one
Guernsey resident directors required	No
Guernsey administration required	Yes (by a regulated trust company business)
Guernsey registered office	Yes

Summaries in respect of PTFs

Type of entity	Foundation
Licensing requirements	None (but see above)
Approval from GFSC	Yes, where acting by way of business
Annual filings	Yes (annual confirmation statement and fee for the PTF)
External audit	No (unless constitutional documents require)
Guernsey taxation	Zero per cent income tax
Number of council members	Minimum of one
Number of shareholders	None
Guernsey resident councillors required	No
Guernsey administration required	It is a requirement for a PTF to have a resident agent who is either (i) an individual resident in Guernsey who is a foundation official or (ii) a licenced fiduciary service business.
Guernsey registered office	Yes

Contacts

A full list of contacts in our International Trusts & Private Client team who specialise in this area can be found [here](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this guide, please get in touch with one of your usual contacts. You can find out more about us and access our legal and regulatory notices at [mourant.com](https://www.mourant.com). © 2025 MOURANT OZANNES ALL RIGHTS RESERVED