



EQUITY

BANK AND TRUST BAHAMAS LIMITED

Foundations

Foundations came into use in a number of Civil Law jurisdictions in Europe in the late 1920s, to provide confidential protection for assets in anticipation of the outbreak of the Second World War. They have since gained acceptance in many countries in Europe, Latin America and mostly Civil Code countries where trusts are less well-known, often misunderstood and not always acceptable.

In an effort to meet the requirements of an increasingly sophisticated financial services marketplace, The Bahamas passed The Foundations Act 2005, thus becoming the first premier Common Law jurisdiction to introduce Foundation legislation as part of an aggressive legislative agenda designed to strengthen the country's International business and regulatory environment.

Once the Foundation is duly established under the Foundations Act, it is considered to be resident and domiciled in The Bahamas. Nevertheless, this does not prevent a Bahamian Foundation from being re-domiciled To another jurisdiction or prevent a Foundation from a foreign jurisdiction being re-domiciled in The Bahamas provided the laws of such jurisdiction allow it to re-domicile. A Foundation may be established for private, commercial or charitable purpose so long as these purposes are incidental or ancillary to its main purpose which is the management of its assets and all such purposes are not unlawful, immoral, or contrary to any public policy in The Bahamas.

Like Trusts and Companies, Foundations may be used for Estate Planning, Tax Planning, Preserving Family Wealth, Segregating Assets, Perpetuating Corporate Governance Philosophy, Subordinating Debts, separating Voting and Economic Benefits, Investing in Private Companies with a poor economic performance, Owning Private Trust Companies, Establishing Charities and for Anti-forced Heirship and Creditor Protection purposes.

Structurally, a foundation constitutes a hybrid between a trust and a company, having several aspects in common with one or the other:

- Like a company, a foundation is a distinct legal entity that enjoys limited liability.
- Like a trust, a foundation has beneficiaries.
- Like a company, a foundation must be registered and have a registered office.
- Like a trust, a foundation may be used to avoid forced heirship in other jurisdictions.
- Like a company, a foundation may have a council appointed by the founders to act in their interests.

A Foundation is required to conduct and maintain due diligence on the Founders and beneficiaries of the Foundation which may be carried out by the Foundation Secretary or Foundation Agent.

Foundations are exempt from:

- Bahamian Taxes.
- Business License Fees.
- Stamp Duties (provided no Bahamian real property or personality is involved).
- Exchange Controls (provided such Foundations do not have founders or beneficiaries who are resident for Exchange control purposes).

IMPORTANT DISCLAIMER: The information contained in this memorandum is of a general nature only and should not be construed as legal or tax advice. Readers should obtain appropriate competent professional advice before setting up any structure.